

R E P O R T

FROM THE

SELECT COMMITTEE

ON THE

FARMERS' ESTATE SOCIETY (IRELAND) BILL;

TOGETHER WITH THE

MINUTES OF EVIDENCE

TAKEN BEFORE THEM.

*Ordered, by The House of Commons, to be Printed,
25 July 1848.*

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R E P O R T.

MR. GLADSTONE reported, that on account of the important considerations of public policy which the Bill appeared to them to involve, they had directed him to move this House, that the Bill be re-committed to a Committee of the whole House, and that it be Printed, together with the Evidence upon it, for the use of Members.

25 July 1848.

LIST OF WITNESSES.

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MINUTES OF EVIDENCE.

London, 17th die Julii, 1848.

THE RIGHT HON. WILLIAM EWART GLADSTONE, IN THE CHAIR.

Mr. Smyth appeared as Agent for the Bill.

17 July 1848.

No party appeared in opposition to the Bill.

Mr. Smyth was heard to open the case of the Promoters.

The Committee-room was cleared.

After some time, the Agent and Parties were again called in, and informed by the Chairman that the Committee had been considering the subject of the Bill as far as it had been brought before them by the statement of the Agent of the Promoters; that they all felt that there were points of great importance connected with it, with respect to which they wished to have the means, before they went further, of referring to others, not upon the Committee, for assistance, and that they therefore proposed to adjourn until Wednesday next, at 12 o'clock.

[Adjourned to Wednesday next, at Twelve o'clock.]

Mercurii, 19th die Julii, 1848.

THE RIGHT HON. WILLIAM EWART GLADSTONE, IN THE CHAIR.

The Chairman stated that the Committee were ready to proceed with the Bill, and requested Mr. Smyth to give them a list of the points to which he proposed to call witnesses.

19 July 1848.

Mr. Smyth was further heard to open the case of the Promoters of the Bill.

The Earl of Devon, Examined by Mr. Smyth.

1. YOUR Lordship is an extensive landed proprietor in Ireland?—My family are. I have been acquainted with Ireland 45 years pretty nearly.

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2. And particularly during that period, I believe, your attention has been directed to the state of land in Ireland, and the condition of the tenantry upon the land?—Very much from having had, as a young man, the management of the family estates; and subsequently from having been engaged in public duties, which have made me very much acquainted with the land.

3. Committee.] Particularly as the head of the Commission for inquiring into the relation between landlord and tenant?—Particularly in connexion with the Land Commission. My acquaintance with Ireland began in 1804.

4. Mr. Smyth.] Your Lordship, I believe, in consequence of your connexion with Ireland, and your desire for the improvement of the agricultural condition of Ireland, in the Session of 1836 took an active part in obtaining an Act for incorporating a company for the improvement of waste lands in Ireland?—I did.

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5. Your Lordship, I believe, was also a member and the chairman of a Commission appointed by Her Majesty to inquire into the state of the law and practice in respect to the occupation of land in Ireland?—I was. I was occupied pretty nearly three years on that Commission.

6. Does your Lordship happen to recollect a recommendation of the Commissioners respecting the sale of estates in Ireland?—I perfectly well remember that the Commission came to the conclusion that it would be very desirable that facilities should be given for the sale of estates in various ways, and particularly for the sale of estates in smaller divisions, than they are now usually brought to the public market. The result of our observation throughout the country was, that we thought that if there should grow up a class of smaller proprietors, holding that quantity of land, upon which they were likely to reside, it would operate as a very great social improvement in Ireland.

7. I find that the words are "a great improvement in the social condition of Ireland"?—I do not remember the exact words; but I know that that was the feeling of the Commission. I may, perhaps, be permitted to say here that probably the Committee are well aware that my colleagues on that Commission were Irishmen, landed proprietors, and extremely well acquainted with the state of Ireland.

8. I will read the passage if your Lordship pleases, and will then ask you whether you still think that the opinions expressed in the passage and the recommendations given in it are sound, and such as it would be desirable to adopt by a legislative provision. The passage is this: "It now rarely happens that land in Ireland is brought into the market for sale in lots of a moderate or small size. Estates are so generally encumbered by family settlements or otherwise, that the expense, delay, and difficulty which would attend the dividing them, so as to sell in separate or detached portions, deter a proprietor from taking this course, although a larger sum might be raised by it in the whole. We believe that there is a large number of persons in Ireland possessing a small amount of capital, which they would gladly employ in the purchase and cultivation of land, and a still larger number, now resident in different parts of the country, and holding land for uncertain or limited terms at a rent, who would most cheerfully embrace the opportunity of becoming proprietors. The gradual introduction of such a class of men would be a great improvement in the social condition of Ireland; a much larger proportion of the population than at present would become personally interested in the preservation of peace and good order; and the prospect of gaining admission into this class of small landowners would often stimulate the renting farmer to increased exertion and persevering industry." Are you still of opinion that the language used in the report there is founded upon a correct view of the state of the facts and the condition of the people?—Every year's experience has confirmed me in the soundness of that opinion, and I feel very confident that it is the correct representation of what would happen.

9. Does your Lordship's knowledge of the state of Ireland and the tenantry upon the estates, lead you to believe that land disposed of in small lots sells at much higher rates than in large portions?—There is no doubt that that is the case.

10. Are you also of opinion that this mode of sale is best suited to the circumstances of Ireland?—I believe that with reference to the present circumstances of Ireland, it is almost indispensable. However strong the opinion may be that agricultural improvement would be best promoted by having large farms and much capital applied to the cultivation of land, although I believe that to be a consummation devoutly to be wished, yet I believe that it is a state of things which cannot be looked for as capable of being attained at a very early period; and I believe that the enjoyment of moderate sized holdings by persons as proprietors, is the only mode to which we can now look in the present state of Ireland for the agricultural, and consequently the social, improvement of the people.

11. Then I take your Lordship's opinion to be, that the immediate step to be taken for the purpose of improving the social condition of Ireland, in these respects, would be to establish, in the first instance, small farms of a limited extent?—I have a strong opinion, and I have frequently expressed it in Parliament, that the social condition of Ireland can only be improved through the medium of the agricultural improvement; and I believe that the best mode of promoting that agricultural improvement would be to give a larger number of persons

persons than now enjoy it an absolute interest in the improvement of the land, by making them proprietors.

12. I will take the liberty of asking your Lordship another question, and I will beg to inquire whether or not, as the result of your knowledge of Ireland, and the state of the agricultural population there, you are of opinion that if small farms, upon the plan which you state, were to be established in Ireland, that circumstance would tend to diminish that extreme subdivision of land which is now so much complained of; that is to say, whether, if you had farmers in five of 20 or 30 acres, those men would be of themselves, when once they had the fee, disposed to cut it up, or to retain it in the extent in which it was?—It is difficult to express a very decided opinion upon that; but my opinion certainly is, that an Irishman possessing 20 acres of land, or 30 acres of land, as a freeholder, would be less disposed to cut it up into small bits for the benefit of his family, or for tenure, than he is now disposed to cut it up if he holds it as a tenant of the land. He would feel, in that case, that he was giving away something of his own, whereas now he feels that he is giving away but little from himself, and perhaps it does not very much enter into his consideration whether or not he annoys his landlord by sub-dividing the land; but I think he would be very sorry to sub-divide it if it were his own freehold property.

13. Supposing those small estates which we are now contemplating were to become numerous in Ireland, are you of opinion that there would be a security which would be more easy to be realised for the purpose of paying such things as poor rate, county cess, and those public imposts which it is desirable as a matter of public policy to have conveniently and quietly paid?—I think it would be rather more easy to enforce the payment of charges of that nature against a freeholder than against the tenant.

14. Supposing a party had the fee of so many acres of land, I presume he would be likely to pay more quickly and readily than if he was merely the tenant?—Yes, I am of that opinion; and I think that in the course of a few years his land would be better cultivated, more improved, and that would produce him a better income, and consequently he would be better able to pay.

15. Is your Lordship of opinion that such a body of freeholders would tend to increase the peace and good order of the country at large?—I think everything which gave a considerable number of persons a strong interest in the peace and tranquillity of the country would tend to increase that peace.

16. Those charges which are very heavy, and which are now, I believe, borne by the Consolidated Fund, for instance, the charge with respect to the police, would be diminished; we might anticipate that as a result of the increase of this small estate system?—I do not apprehend that any change of this nature could operate very immediately, but I have a strong opinion that it would tend to have that effect.

17. Has your Lordship been good enough to consider the Bill proposed?—I have read it. When I find my own name put prominently in it I have read it carefully.

18. May I ask your Lordship whether you are of opinion that the objects of the Bill can best be effected by means of a joint-stock company?—I am very much afraid that the objects which the Bill has in view could not be effected without the formation of a joint-stock company. I think that one mode by which the sale of land, as contemplated by this Bill, could be effected, would be by making provision for deferred payments, making the purchase-money payable by deferred instalments; and I do not believe that many individuals would be disposed to adopt that mode. I think that the objects contemplated by the Bill could only be carried into effect by the formation of a joint-stock company.

19. With regard to the Waste Lands Company, that company has been now in operation for many years?—Yes.

20. As well as I recollect, in Sligo, in Limerick, and in Galway the operations of the company have been carried on?—Yes. I may perhaps be permitted to add to that answer, that during the year 1846, and a great part of the year 1847, not one in 100 of our tenants went to the union, and there was no disturbance of any sort or kind on the estates held under the Waste Lands Company.

21. *Committee.* What is the extent of the land in connexion with that company?—About 10,000 acres altogether; it is very limited in point of amount.

22. Does your Lordship recollect, at this distance of time, much of the Parliamentary

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Sanitary proceedings connected with the passing of the Waste Lands Company's Act?—Yes, I do. I introduced the Bill in the House of Lords, and took an active part in the formation of the company.

23. Was Her Majesty's Government decidedly favourable to that Bill at the time?—Yes, I think it was.

24. Was much objection taken to the principle of the formation of a company for the purpose of acquiring land?—No, I think not. The objection was felt particularly by Mr. O'Connell, the idea that a set of gentlemen in London were to become landed proprietors in Ireland; and that was met very much by obliging the company to sell after a certain time; that they should not be holders beyond a certain length of time.

25. Did the society originally contemplate only taking the lands on lease, or did it seek the power of taking lands by purchase?—I do not think there was any proposition to purchase the fee. I cannot exactly say now why there was not; a 99 years' lease was considered to be sufficient for us, especially as we were going to sell that lease within 20 years; there is a power to sell, but on obligation upon the company to offer it to the head landlord at a certain rate, somewhat lower than it would probably be sold at to the public; the sale of the beneficial interest, the profit rent as we should call it, we are bound at the end of a certain number of years to offer to the proprietor at 19 years' purchase; I think that is the profit rent which we are making from the land; the lease, in fact.

26. Your Lordship does not recollect whether there was very much discussion or much consideration of the question, whether the society should simply take lands on lease for 99 years, or whether it should be empowered to purchase lands for the purpose of selling out and out?—I do not recollect any discussion of that sort in the House of Lords, and I am not aware that there was in the House of Commons; there may have been.

27. Would the object of that Act have been more perfectly attained, in your Lordship's judgment, if it had taken the power of purchase out and out, with the view likewise of selling out and out?—I think it would; I think it would have been an improvement in the Act. We should be very glad of that power now.

28. But you do not recollect whether it was made an object to obtain that power, and whether the provisions were limited in consequence of the objections to grant the power?—Mr. O'Connell was a great promoter of it; and he had, rightly or wrongly, a very strong prejudice against letting any gentlemen become proprietors. I recollect perfectly that I had many discussions with him upon the subject; and he would not, I know, have supported the Bill if there had been a clause to purchase out and out. I confess I did not very much see the force of his argument, but he carried the Bill through the House of Commons.

29. You thought that leases for 99 years were sufficient to enable the company to work out this experiment, and therefore you were satisfied to take as much as was sufficient, though you would have liked more?—One effect of limiting it in that way was that the power of the proprietor was not absolutely gone; the proprietor, after a certain time, might get his estate back in an improved condition. That was the result of the way in which the Act was framed; whereas if we had taken power to purchase, we should have changed the ownership of the land, which does not necessarily now follow; and I have no doubt that was the feeling which many of the Irish promoters of the Bill entertained.

30. In point of fact, what has been the course of proceedings under that Act; has the company taken lands on lease for the full term of years for which it was entitled to take them?—The company have taken lands for 99 years, and the company have fallen into considerable error in undertaking to pay too high a rent; and from this cause, and from the operations of the company not being sufficiently extended, the undertaking has not been profitable to the company; but the reports which are before the public show this, that in each particular instance the operations performed upon particular estates are profitable in themselves, taken alone. The necessary establishment charges are kept down as moderate as possible, but still the general expenses eat up the profits which would otherwise come from the aggregate of those different estates; and it will be seen, upon looking at the reports, which speak for themselves, that if the operations of the

the company were more extended, especially with the experience which we now have of the rent which we can afford to give, the concern might be made profitable to the proprietors. To the country where the operations have been carried on, the operations have been extremely beneficial.

31. Did the company conduct the operations of improvement to any great extent by itself?—By itself.

32. And then parted with the lands in an improved state?—And then let the lands after three or four years' work upon them, bringing them into a state in which the tenant could go on with them.

33. Therefore it had extensive agricultural operations to conduct?—It had.

34. On what tenure has it usually let the lands?—It is very variable; there are many small lots, and a great many have no lease at all. They are held from year to year; in many instances they are not desirous of taking a lease.

35. As to the extent of the holdings, what extent of holdings is the most usual?—Mostly small; 20 or 30 acres. There are one or two that are larger; one is let of 700.

36. Are there many below 20 acres?—No; we have avoided that as much as possible.

37. Has the company any rule as to an absolute minimum?—I do not think there is any general rule. One of the directors, who is called the managing director, Colonel Robinson, a very intelligent person, is a good deal there, and it is left to his direction on the spot.

38. But your impression is, that in practice he rarely goes below 20 acres?—He rarely goes below 20 acres.

39. With respect to the Bill now before the Committee, your Lordship is of opinion that it would be very desirable to form a class of yeoman proprietors in Ireland?—I am.

40. Do you think it equally desirable that you should form a class of leasees in perpetuity upon small holdings?—I think it is more advantageous that they should have the freehold, I confess; I certainly do not approve of granting de more long leases; I do not think it desirable at all.

41. I presume the intention of the framers of the Bill, with respect to this part of the provisions, to be, that whereas there may now be lands held in considerable masses under leases in perpetuity, those leases in perpetuity shall be taken by the company, and the land held under them shall be broken up into small portions, and therefore that that shall practically create a new class, or at all events extend, if it at present exists, the class of very small leasees in perpetuity; and the object of my question was to know whether your Lordship considered that a class of very small leasees in perpetuity was a class that it would be desirable to extend or to create in Ireland?—I think certainly not; I think that the class of persons holding under leases renewable for ever is not a beneficial class, whether the holdings are large or small. I certainly should not wish to multiply the number of those who so hold; it may be, from the nature of the tenure, now hardly possible to prevent it, but I certainly do not look to it as a beneficial operation to multiply the number of those persons.

42. Then is your Lordship prepared to say that, in a Bill of this nature, which must be regarded as experimental, and which, therefore, need not aim at comprising the whole area of Ireland within the field of its operations, it is desirable to include provisions for enabling the company to take land under lease in perpetuity, in order that it may sub-divide it under lease in perpetuity?—If there is freehold land enough to be bought, I should very much prefer having it. I do not think it would be a beneficial operation. I do not know that it is a very important part. If it is thought that it would be advantageous to limit that class of holdings, I do not know that the general operations of the promoters of the Bill would be injured by it.

43. In the first and second lines of the Bill there are the words "permanent body of independent yeomen;" are there any clauses or provisions in the Bill that secure the continuance of that body as permanently independent?—The clauses of the Bill go to create a larger number of persons holding land as independent proprietors than at present exists, and so far will tend to create a body of independent yeomen.

44. But has not any man buying those 20 acres from the company, the power, he is not at least restricted from it, of borrowing money upon the land he so buys?—He is not restricted; he can do it.

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45. Then supposing him to borrow the money almost to the amount of the estate, do you secure in that way a permanent independent yeoman?—No, certainly not, any more than you can prevent any man who holds a freehold estate from making himself dependent by borrowing to the extent of his interest, but you increase the number of persons who have that ingredient of independence, a freehold estate.

46. Does your Lordship apprehend the meaning of the preamble to be that the yeoman is to be independent *vis-à-vis* the tenure of his land?—Yes.

47. How can you guard against any man borrowing the money to purchase the land from the company and so rendering himself perfectly dependent before he gets possession of the land?—You cannot guard against it all.

48. Do not you think that it would be desirable, if it could be done, to prevent the borrowing of money upon these small portions of land so allotted out by the company?—It might be desirable; but you will allow me to say that in looking to the advantages to be derived from this Bill I must look at them in comparison with the existing state of things, and I must consider whether we are going to make a class of persons independent in comparison with the class of persons who hold now as tenants at will, or under various leases.

49. You stated that you conceived that it would not only be more beneficial to the company that estates should be sold in small portions, but that also it would have the tendency of creating this class of yeomen; is your Lordship aware of any large estates having been sold in portions?—No, I am not. For the reasons which are given, partly in the report and for other reasons connected with the making out of title, it has been very little the habit in Ireland to sell in small portions, because unless means are taken, as has been done of late in some Acts of Parliament, to give what is called a Parliamentary title, there is very great difficulty in selling an encumbered estate unless you can sell the whole, or sufficient at least to pay off all the encumbrances, and that has led practically to very few estates being sold in small lots.

50. From your Lordship's knowledge of Ireland, do you conceive that persons buying those detached portions would cultivate the land themselves, or would hold that land as proprietors, letting it off to tenants?—My belief certainly is, that from the feeling which is now growing, and I think prevailing pretty generally, in Ireland, they would cultivate the land themselves. I do not think that the evil, which arose formerly from persons holding lands, middlemen, would increase, or would take place again.

51. Is that your Lordship's opinion, from your practical knowledge of the country in the course of the Commission which you carried on?—That opinion is formed from personal communication with a great many persons in the class of renting farmers; I believe that there is a very growing disposition to become connected with land, and to improve it by improved agriculture, and that there is a much larger number of persons who now look to residing on and cultivating their land themselves than existed 50 years ago.

52. Your Lordship is aware of a class of people, called Middlemen, in Ireland?—I have had a great deal to do with them.

53. I think your Lordship explained that the cause of the existence of those middlemen, and the subletting of the land, was from those people not having a tenure in fee, or a beneficial interest in that land, conceiving that that land would revert to another, and that therefore they had no object in retaining that land in their own possession; but is your Lordship aware that a great number of those middlemen are people holding under leases renewable for ever?—I am quite aware of that; but I believe it will be found that all middlemen who are holders of land upon leases renewable for ever, hold very large tracts of land, and mostly upon old leases; they are the remnants of old leases.

54. From your Lordship's knowledge of Ireland, have you found that to be the case over the whole of Ireland, or only in particular districts?—Before I was engaged on that Commission my knowledge of Ireland was confined very much to the county of Limerick and the neighbouring counties; the business of that Commission of course made me familiar with all parts of Ireland.

55. Is your Lordship aware of what the state of the people has been generally during the last three or four years since the failure of the potato crop?—Yes. I spent a great part of the year 1846 in Ireland myself, and as chairman of the relief committee, and acting as a magistrate, I saw a great deal of the state of the country at that time.

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56. From your knowledge of Ireland, who does your Lordship conceive were able to bear the pressure the best; those holding large farms, or those holding small farms?—Those holding large farms were generally more affluent persons, those holding small farms as tenants were not able to bear it certainly.

57. Does your Lordship conceive that, supposing such a misfortune should again arise to Ireland as the failure of the potato crop, people holding small farms would be able to carry on the cultivation of those farms and support their families without the means of that description of crop?—We must first decide what we call a small farm.

58. Supposing under 50 acres?—I believe that a freeholder holding from 20 to 50 acres would be as able to bear the pressure of the times as any other person.

59. But under 30?—I should say, if called upon to state the limit that a man holding under 30 acres would feel the pressure of the times very severely, but with from 20 to 50 acres, an industrious man may enable himself to stand against the pressure of the times quite as well as any other man, unless a proprietor who has a large fund at hand; if he has a large property from other sources that is another thing.

60. I put the question respecting people who were to live on their own means, without any support from any other quarter; namely, persons holding in fee, or on a lease renewable for ever, would they be able to support themselves without support from other quarters, from what their ground produced?—I think they would quite as well as a man having no other means but holding 1,000 acres. The amount of burden would be in proportion to the extent of holding.

61. I think in the report of the Commission over which you presided, you passed a strong opinion, as you have done now, as to the objectionable nature of the tenure called "leases for lives, renewable," and you made a recommendation there, that Parliament should change that into a tenure in fee. Supposing the Legislature were to adopt your suggestion, do you then think that there would be any objection to give to this company a power of holding land under such circumstances, and retelling it out again, subject to the same provisions as the original holder of that land would be under?—No, I think not; because there would then, on that supposition, be a facility of turning those leases for lives into a fee.

62. But it would be entirely with a view to their being so converted, and you would object to the company acquiring land in fee, and then letting it out under lease in perpetuity?—Yes.

63. With respect to the minimum of 20 acres; 20 acres in this Bill, I conclude, must be understood to be Irish acres?—

Mr. Smyth stated that they would be interpreted to be statute acres.

I think 20 statute acres is quite as low as it ought to go.

64. Your Lordship, however, is of opinion that it is not too low?—No, I do not think it is too low; I am confident that the class of men who reside upon lands as farmers in Ireland, in those counties with which I am most acquainted, could make a very fair livelihood for themselves and their families, and derive some profit from a proper cultivation of 20 acres. I have taken some pains to examine that question.

65. Would you be so good as to describe to the Committee the manner in which the cultivation of these small farms of 20 acres would usually be conducted, the crops into which they would be put, and what would be the economical arrangement of the farmer with respect to tillage, and so on; how it would be conducted, and likewise whether he would, as a general rule, depend entirely upon the application of his labour to his own farm, or would himself become a labourer for others under any circumstances?—That depends upon the size of his family. I really am not sufficiently a practical farmer to explain very satisfactorily to the Committee the exact mode in which he would cultivate. Everybody who has been at all acquainted with Ireland during the last three or four years has seen that the agriculture in most parts is improved. I think a man having 20 acres as his own freehold would be ready to adopt the improvements which he would see around him; he would adopt, after a short time, the rotation crop, and he would derive from his land a much greater amount of produce than he is in the habit of deriving in his present mode of cultivation.

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66. Therefore the Committee understands that those men, as a class, would in time apply the rotation of crops to the management of their land?—I should say that they would; and I say it with some confidence, because I speak upon my own observation of what the better disposed of the tenant farmers do. In the estate with which I am more particularly connected we have of course some very bad tenants and some very good ones, and I could point out tenants from year to year, farmers there, who have sufficient confidence in their landlord to adopt a very beneficial mode of cultivation, and who make a very good profit on their land. My impression is, that all the persons (at least, generally speaking, the great majority of the persons) holding land as independent proprietors would adopt the course which I see the better division of the tenant farmers adopt.

67. Does your Lordship see the better division of tenant farmers, even as low down as upon holdings of 20 acres, adopting improved methods of agriculture?—Decidedly.

68. With regard to the employment of the man himself, would the proprietor of 20 acres give his time exclusively to the management of his own land, or would he frequently, do you think, be a labourer on the lands of others also?—No; I think he would give his time exclusively to the cultivation of his own land; and one benefit to be derived from the improvement in the mode of agriculture is, that occupation is found for every part of the year, which according to their bad mode of cultivation is not the case.

69. Would he often unite another trade, such as, for instance, the trade of a blacksmith or any other rural trade, with the tenure of his land, do you think?—He would be glad to do it; that is, a blacksmith would be very glad to hold land; there is that universal desire to hold land that you find everybody, in whatever trade or business he is engaged, very desirous of holding land; but there are very large tracts of country in Ireland so remote from any town or village that the whole occupation of the holder of land will be agricultural.

70. How would he conduct the tillage of his land; he would not keep a horse of his own, would he, to drive his plough?—He would, I hope, introduce much more spade cultivation than is adopted now; but, at the same time, the tendency of the Irish farmer would be to keep a horse, and to borrow a horse from his neighbour, and they would assist one another. That applies to as low as 20 acres; but I will just take occasion to observe, that as those 20 acres are named as the minimum, I should hope that it would not be by any means the general rule.

71. As a general rule, a man having 20 acres of land, and having nothing else to depend upon, could not afford to keep a horse, could he?—He does keep a horse now, and very often two.

72. Are there any small freeholders at all in Ireland now?—Very few indeed.

73. On the whole, then, your Lordship is of opinion that 20 acres is the minimum which it would be desirable to retain in this Act, supposing it were to receive the assent of Parliament?—I am of that opinion.

74. At the same time, while you think that it is the minimum, or that it is as low as it can be carried with any safety, you are of opinion that it would be desirable, as a general rule, with such holdings as those, in order to secure fair chances, that the farms should be higher than 20 acres?—I think so indeed.

75. Your Lordship stated that you thought that when persons bought small portions of land, they would become cultivators themselves of that land, and would not sublet that land; did you state that from your practical knowledge of Ireland, and from knowing that such had taken place of late years, or from your general opinions as to the improving social condition of Ireland?—There are so very few freehold occupations of that small character, that I cannot speak from actual observation on that point; but I think that the feeling of the persons who subdivide now, being tenants, would not take the same direction when they were proprietors themselves; that they would not be so disposed to give away a portion of that which they would consider practically and positively their own as they are disposed to give away a portion of that which they consider mine or yours.

76. Your Lordship states that as an opinion more than from actual knowledge?—I must give it as an opinion. I think it an opinion of which much doubt cannot be entertained.

77. Your

77. Your Lordship has stated that in your opinion an Act of this kind, presuming it to be operative, would materially tend to check the practice of extreme subdivision of land in Ireland; but would you in framing this Act be content to trust to that tendency alone, or would you also include in an Act of this nature penal provisions to take effect upon the subdivision within a certain limit, say 20 acres, in the present case?—I have considered that question, and although I should be very desirous of preventing the subdivision, if it were practicable even by law, I think there is so much difficulty in framing any provision that would not be liable to greater objection, that I should be disposed probably to leave it without any express penalty, and for this reason, that I do not think by passing a Bill of this kind you will in any degree aggravate the evil which now exists; on the contrary, so far as it affects it at all, I think it will rather check it, and, therefore, it does not appear to me to be absolutely necessary to accompany what is proposed to be done by any provisions of the law which are not applicable to the present case.

78. Do you see positive evil in the attempt to introduce penal provisions against subdivision, or would your objection to them simply be grounded upon the fact, that you thought they would prove inconvenient, and perhaps impracticable?—I really have not been able, although I have tried it in several ways, to devise any mode which is satisfactory to myself. I do not very much like the provision in the Bill, I confess.

79. Your Lordship has considered the provision as it now stands in the Bill, that in case of division below 20 acres, the land so divided shall, *ipso facto*, become liable to pay to the poor's rate one-half of the annual value?—The objection which some persons would feel to that would be, that it is placing the holder, deriving title in one particular way, in a very different position from persons who derive a similar title in another way; that is, if I, as an individual, chose to sell my land in 20 acres, the holder from me would be in a very different position from the holder from the company.

80. Does not that observation of your Lordship apply a good deal to the whole Bill; is not the constitution of an incorporated company to hold land of an anomalous and an exceptional nature, and must not the provisions rather be tried by their particular expediency in each case, than by the question whether they conform to general rules of proceeding?—If I may be excused for saying so, I do not follow that question. I do not think that there is anything very peculiar in merely enabling persons to form a joint purse to buy land, and that is all that is proposed.

81. Is there not something peculiar in this, that all the parties who deal with a private individual know that they are dealing *pro et contra* with a person upon a footing of equality as to power and influence with themselves, with a person subject to the same chances and contingencies of life, and with a person the whole of whose substance is answerable for his engagements; but that in dealing with an incorporated company you are dealing with individuals of great power and influence associated together, and likewise who are not liable beyond the very limited sums which they may have thought fit to contribute to the company for any engagements into which they may enter?—It must be recollected, at the same time, that the engagements into which the company would enter must also be of a very limited nature, as to the responsibility incurred by them, and the parties would always have an opportunity of knowing that the means by which the company can fulfil their engagements are equal to those engagements.

82. Your Lordship has stated that this Bill is founded in a great degree upon the assumption, that land broken up into small portions will sell for higher prices than if it is sold in large masses?—Yes.

83. Will not that principle apply to the breaking up of land into portions less than 20 acres, and if so, will not there be a very direct and positive inducement to the parties who may have purchased a 20 or 30 or 40 acres lot, to break it up again into lots of three or four or five acres; may not many profit purchases and sales be made from the company, and in that case would not the whole purpose of the Bill be defeated?—That certainly would be an evil which might possibly follow from it, if once it is supposed that, either by the company or by individuals, the selling in smaller lots is advantageous. The possibility of that to which the Chairman alludes must be contemplated.

84. This Bill, however, is intended to give greatly increased facilities for the
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formation of a class of small proprietors, holding at least 20 acres; then the Committee would like to know whether it is probable that if the Bill were passed these facilities would likewise be available for the creation of a class of still very much smaller proprietors; and if that be so, they would be glad to have your Lordship's opinion whether you look upon that likelihood as constituting a serious evil, or whether you think that having a class of proprietors of two, or three, or four, or five acres created, would, relatively to the present state of Ireland, be a change for the worse or a change for the better?—I should think it not desirable. I do not anticipate that it will occur to any great extent. It is certainly possible that it may; and I do not go the length of saying that it would be desirable that a subdivision, even of freehold, should take place to so large an extent; at the same time, even a very small subdivision can hardly be worse than the state of subdivision now.

85. Would your Lordship look upon the proprietor of two or three or four acres as in better circumstances, perhaps, on the whole, and as a general rule, than the tenant, at a rackrent, of two or three or four acres?—I do not know that I should. I think that that class of very small proprietors might be rather an evil than a benefit, certainly.

86. Still, notwithstanding the risk of giving additional facilities for the creation of such a class, you would not introduce powers or provisions into this Bill to check the tendency to further subdivision?—I have not seen yet any mode by which I could do it satisfactorily to my own mind; I would rather run the risk than introduce a provision which I thought might do mischief. I beg to be understood that in these answers I am giving only my own individual opinion.

87. When your Lordship was asked as to the reason why an enterprise of this kind should be undertaken by a joint stock company and not left to individuals, the Committee understood you to reply, that it was in a great degree because the payments for the purchases to be made by these small proprietors must be expected to come in instalments, and because individuals would not be very likely to part with their lands upon the condition of receiving payments by instalments. Your Lordship then looks upon the payment by instalments as an essential part of this Bill?—I do; I think it likely to bring into the market as purchasers, a great many persons who would not otherwise become such.

88. Does your Lordship think that the usefulness of the Bill would be destroyed if the provision allowing payment by deferred instalments were struck out, and if the company were limited to dealing with those persons that could pay at once, or that at all events could pay within such time as it is usual to allow, six or 12 months, or a couple of years, the whole price of the land?—I think the usefulness of the Bill would be very much lessened, and I think it is perhaps rather unfair towards the company, because individuals, though they might not be very ready to deal in that way, would have the power of doing it, and some individuals would probably be found who would go into the market therefore with advantage, inasmuch as they could take payment by instalments, which the company were precluded from taking.

89. But does your Lordship see no danger in those provisions allowing payment by instalments, which may be deferred over a period of 21 years; if we allow a provision of that kind, do not we, in point of fact, depart from the foundation which your Lordship has laid for us in the Report of the Commission, that there are persons having capital and ready to take these portions of land, and if you allow instalments to be spread over a period of 21 years, may not you, in point of fact, virtually be creating a rack-rent tenantry; and may not you give even perhaps greater scope to the recklessness of men in taking their land than they now have in taking land from an ordinary landlord?—I do not think it an essential part of the Bill that instalments should be allowed to run over so long a period as 21 years.

90. Does your Lordship approve of so long a period?—No, I do not.

91. You would cut it down very much?—I would cut it down, certainly. I do not at all know what the more immediate promoters of the Bill feel upon it; I am giving my own opinion.

92. Does your Lordship think that it would be right to require that a certain portion of the purchase-money, whether it were one half, or some other not inconsiderable proportion of the purchase-money, should be paid down, and that a limited number of years might be allowed for the payment of the rest?—I see no objection to that, because I quite concur in the view which I see is taken

taken by the Chairman, that it is desirable that they should be *bona fide* purchasers of the land; that they should not be contractors for holding land in a different manner under the colour of a sale.

93. And that it should be really offering the means of investment to those persons who have something which may be called capital, and not merely a new mode of offering the tenancy of land to those who have their labour and nothing else?—Certainly.

94. Is there any other reason besides that of payment by instalments which you would give for proceeding by the incorporation of a joint stock company in this matter, instead of trusting to the operation of ordinary motives upon individuals?—I think there would be a good deal of trouble, and some degree of risk, in the operations, which individuals may not be disposed to undertake perhaps, in subdividing and arranging the land; and that if a company are enabled to buy an estate altogether, there will be many instances in which they will so buy it and sell it in smaller lots, in which an individual proprietor would not do so.

95. Your Lordship thinks that at present the breaking up of land into small lots has been prevented in a great degree by difficulties as to title?—By difficulties as to making out title.

96. Your Lordship looks upon the Encumbered Estates Bill now on its passage through Parliament, as very materially connected with the present?—Very materially; the two Bills together will work very much in assisting each other.

97. The Encumbered Estates Bill, passing even without this Act, would give facilities to individuals for breaking up their lands which they have not hitherto enjoyed?—The Encumbered Estates Bill, standing alone, would, in my opinion, do a great deal of good.

98. Independently of other advantages, it would go a great way towards securing the particular advantages which this Act contemplates?—It would.

99. On the other hand, supposing the Encumbered Estates Bill not to receive the sanction of Parliament, this Act, I am afraid, according to your Lordship's views, would not be of much use, or how is that?—No, I do not think that. Supposing this Act to pass, enabling the company to give 50,000*l.* or 100,000*l.* for an estate, they being contented to sell it in sub-divisions, taking a portion of the purchase-money, and taking the remainder by instalments, that of itself would be an operation which, in my opinion, would be beneficial to the country.

100. In case the Encumbered Estates Bill did not pass, this company would have to go through all the expensive process of having the title proved, and going perhaps through the Court of Chancery; the purchaser of the estate?—The purchaser would.

101. In the case of a sale, would not each purchaser require a title to be made out for him, and consequently, if the Encumbered Estates Bill did not pass, would not the same process have to be gone through in the case of each detached portion?—There are ways of guarding against that in a mode of sale. If the title is completely made to the company purchasing, they will find no difficulty in making it a part of their contract that the expense of the sub-purchaser shall be very much reduced and be very small.

102. But your Lordship entertains a strong opinion that, as matters now stand, and particularly if the Encumbered Estates Bill does not pass, assuming for the moment that the Encumbered Estates Bill should not for the present receive the sanction of Parliament, that it is very unlikely that steps will be taken in the direction of this Act by individuals?—Indeed I do; I am afraid that individuals would not look at the mode of selling property, which alone, I think, will do a great deal of good for the country; they are very much disposed to sell in the lump, if they can; it saves trouble.

103. Is your Lordship aware whether, as matter of fact for a course of years last past, the total number of landed proprietors in Ireland has been diminishing or increasing; has the accumulation of landed properties, or the subdivision of them predominated?—I do not think that the number of landed proprietors has increased. I cannot speak very positively upon it, but it appears from a return which has been made upon that subject, that the relative number, taking the population of Ireland, is extremely small.

104. Is it a diminishing or an increasing number?—I should think a diminishing number; very little land has gone into the market.

105. It is calculated at 8,000, is it not?—Yes. That diminution arises from

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the purchases being made by people who have lands. The Whites bought largely; they had lands before; I think the number has rather diminished altogether; there have not been a great many new proprietors.

106. There have not been a great many new proprietors who have bought in; and, on the other hand, I suppose it happens in Ireland as elsewhere, that where a landed proprietor is wealthy, there is a natural desire to accumulate his landed possessions?—Yes.

107. The Committee has observed that there are no provisions in this Bill requiring the erection of buildings upon these portions of land; is the Committee therefore to understand that the framers of the Bill trust to the natural operation of circumstances to secure a residence upon the land, which of course would be essential as a general rule, in order to gain the main object, that of creating a class of yeomen proprietors?—The object of the framers of the Bill was to leave that to the operation of contract between the parties. The course to be pursued would vary; in some cases it would be quite necessary for the company to insist upon the erection of buildings, but the general notion is that the purchaser would exercise his own discretion upon it.

108. If buildings were erected upon those holdings with which the company might part, it would have a material tendency to check subdivision, would it not?—Yes, I think it would; and it must be, in each particular case, a matter for the discretion of the company to consider whether the laying out of a little money upon buildings would or not bring a corresponding increase in the price when they sold; that must be for their consideration in each case, whether it is better for them to sell 30 or 40 acres without any building, or whether the land is so circumstanced that they had better spend 200 £. upon it and sell it with a building.

109. But your Lordship is not disposed to include in a Bill of this nature any provisions which, without determining the question whether the company should erect the buildings, or whether the purchasers from the company should erect them, should nevertheless require the erection of buildings by either the one or the other?—I am not, because upon a general principle I am very much disposed to leave these things to the operation of the interests of individuals, rather than to interfere by legislation in them, if it can be possibly avoided.

110. But is it altogether an unreasonable apprehension, assuming for the moment that the prospect of interest afforded by a further subdivision should prove to be a stronger inducement to subdivide than any that the purchasers from the company would have to keep the lots together, that then this Bill might go really to aggravate in certain particulars the social condition of Ireland, inasmuch as your Lordship has said that the introduction of a new class of very small proprietors you would look upon as rather an evil than a benefit?—The erection of buildings upon a 20-acres lot might tend to prevent subdivision. My general answer can only be, that upon the whole I think the effect of this Bill would be to lessen the chance of subdivision rather than to increase it; and I should be very glad if effectual provisions could be introduced into the Bill to prevent that subdivision in future; I cannot have a doubt about it; I should be glad to see it done, though I do not exactly know how to do it.

111. If one may ask your Lordship what you would do as a Member of the Legislature, the inclination of your mind the Committee understands would be to strike out of this Bill the penal clauses which enact very heavy penalties to follow upon the subdivision of the land?—If I am asked that question, I should say, as a matter of discretion, I do not think that that clause would find favour generally with the Legislature; that is my impression; I think that there would be objections made to it, which would probably be fatal to it, as being a very unpopular clause, and that there would be a great outcry made about it.

112. Assuming that the object of the Bill is a good one, that the prevention of subdivision is essential, in order to the attainment of that object, and that you cannot sufficiently provide against subdivision without penal clauses, is your Lordship prepared to suggest any form of penal clauses less open to objection than that which is now contained in the Bill?—No, indeed; I think that the mode now in the Bill is as little objectionable as any that can be; and if it is considered that allowing the company to sell in lots as low as 20 acres, will give a facility to further subdivision, it may be very necessary to have some such clause in the Bill. My only doubt about it is, that I do not myself apprehend
that

that allowing a division for sale down to 20 acres will increase the chances of it.

113. What do you think of a clause taking away all remedial recovery of rent, in case the land is subdivided?—That would apply to letting, but not to sale.

114. Does your Lordship think that that would be the best mode of guarding against subdivision by letting?—It would; but it would not apply to cases of sale.

115. Would it not still be open to the risk of collusion between the owner and the occupier, in the case of subdivision by letting, if you were to take away the remedy?—Yes; the clause in the Bill is a very effectual mode.

116. Mr. Swygh. Having regard to those leases in perpetuity, it has been suggested to me that there are many cases to be found in Ireland somewhat like the following: for instance, the case of a nobleman having in fee no less than 10,000 acres of land, the whole of which is let on a lease or leases for lives, renewable for ever. The nobleman receives from the whole of that 140*l.* a year only, and in point of fact has, for all practical purposes, no power or interest whatever over that estate of 10,000 acres; the person, on the contrary, who enjoys that lease, being treated as the actual owner of the estate in that locality. Supposing this to be a fact, and without stating that these estates go to the extent of 10,000 acres, supposing such holdings are not uncommon in Ireland, may I ask your Lordship this question: "Would it not be comparatively useless for a company like this to buy the fee of those 10,000 acres, unless they were at the same time empowered to treat with the man having the perpetuity lease, and to acquire his rights also?—It certainly would be useless; that is a case in which the existence of the perpetuity lease would stand in the way of the operation of this Act. The question still recurs, whether it is essential, for the general operation of the Act, that it should be extended to cases in which the practical effect would be to multiply the number of persons holding by an objectionable tenure.

117. As I am instructed, the effect of this Bill will be that the company will have the power to buy a perpetuity lease in this case, but not to grant a perpetuity lease?—Not to grant a new perpetuity lease; but if they purchase a perpetuity lease, all that they can sell will still be the perpetuity lease: they will not be enabled to sell the fee, and consequently they will multiply the number of persons who hold by that species of lease.

118. Speaking generally, from memory, would your Lordship be enabled to say that this statement which I am about to read is pretty correct? I merely appeal to your Lordship's memory, because I find that very considerable difficulty has been experienced by the gentlemen who made the digest of the report on the occupation of land in Ireland, as to the exact statistics; but there seems to be no doubt about the general result. I would ask you, therefore, generally speaking, whether or not the number of holdings in Ireland under one acre may be put at about the following: in Leinster, 133,220; in Munster, 162,368; in Ulster, 234,400; in Connaught, 125,204; that is to say, making the total number of holdings under one acre in Ireland, 655,399. Above one acre to five acres: Leinster, 49,162; Munster, 67,028; Ulster, 100,817; Connaught, 50,916; making the farms above one to five acres, 368,915. Above five to fifteen acres: Leinster, 45,685; Munster, 61,320; Ulster, 98,993; Connaught, 45,221; making altogether, above five to 15 acres, 251,128. Above 15 to 30 acres: Leinster, 20,584; Munster, 27,481; Ulster, 26,090; Connaught, 6,790; making the total above 15 to 30 acres of 78,854. Generally speaking, are you of opinion that that calculation of the number and distribution of acres in holdings in Ireland is a correct one?—I cannot of course speak from memory to all those figures, but I know that that statement was made up from returns which were obtained from various quarters and different parts of Ireland, and that the intention was to give an exact result from the returns.

119. As far as the means of information go, your Lordship believes it to be a correct return?—I have no doubt it is, generally.

120. Assuming the number and distribution of acres to be something like what I have read to your Lordship, are you of opinion that the present Bill, if it were to pass, would tend to diminish that state of things?—I have already said that, in my apprehension, the tendency of the Bill would be rather to diminish than to increase subdivision. I think that the number of farms held by occupiers, as tenants, under one acre, would be greatly diminished.

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121. *Committee.*] As regards the question of the penalty, I think that your Lordship said that you preferred, with respect to subdivision by letting, the penalty by means of taking away all remedies for recovery of rent; would this, do you think, be a better penalty as regards selling, avoiding the conveyance, letting the vendor take advantage of his own wrong, and eject the vendee?—I should be rather afraid of that, I confess; cases might occur in which advantage might be taken of a poor purchaser, and it might lead to some degree of fraud. I should be rather afraid of it.

122. With regard to the conditions under which the company may acquire lands, is the Committee to understand that your Lordship thinks it would be sufficient if the company were empowered to take those lands only in which it could acquire the whole interest, both the fee and the leasehold interest?—I think that there would be no object to the company in acquiring the fee without the leasehold interest, where the lands were held under leases renewable for ever; and upon public grounds, whatever the company might wish, I doubt whether it would be very desirable to give the power of acquiring the leasehold interest without the fee.

123. Therefore there would be no objection to the company purchasing lands on which there might be small unexpired remnants of leases which would run out within the number of years allowed to the company before being compelled to part with them?—That is quite a different species of tenure. I see no objection to that, subject to such a lease as may exist upon the land, but a lease for lives, renewable for ever, is totally different.

124. Let us suppose the case of some other lease; what is the usual term of lease in Ireland?—Thirty-one years very much in our part.

125. Supposing there were a property with a 31 years' lease, of which 20 years were unexpired, do you think it desirable that the company should be empowered to purchase the fee of that property?—A property subject to such a lease as that is ordinarily sent into the market at present by individuals, and I see no reason why the company should not be enabled to purchase as individuals might purchase.

126. Is there not this distinction, that an individual takes the land for his own benefit and enjoyment without any restraints, except those of the general law; the company takes the land for a specific purpose, that it may part with it within a limited term of years in order to the creation of a body of small proprietors, and if it were a leasehold interest with 20 years unexpired in it, is not that a fatal obstacle to prevent the company from parting with that land to small proprietors within seven years?—It would be a very effectual restriction against the company making such a purchase. If it were thought desirable to introduce a limitation, I do not know that there would be any great harm in it, but the company would certainly act very unwisely in making such a purchase.

127. Is it probable that you would find any property to a large extent in Ireland that would not be subject to such inconvenience?—I believe you will find a great deal of land in Ireland without any leases at all upon it.

128. Large properties?—Large properties; we have very few leases upon our property. Every tenant might have one if he pleased, but few take them. It is the same with Lord Beshorough's and various other properties.

George Alexander Hamilton, Esq., a Member of The House; Examined by Mr. Smyth.

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129. YOU are a large landed proprietor in Ireland, and I believe that your estates are principally in the county of Dublin?—Yes.

130. You were one of the Commissioners upon the Commission to which my Lord Devon has spoken?—I was.

131. You heard his Lordship's evidence?—I did.

132. And you remember those passages which I read to his Lordship from the Report of the Commissioners and the Digest, particularly the Digest, as to the disposing of land in small quantities, and selling it at much higher rates in large portions, and that that mode of sale is best suited to the circumstances of Ireland?—Yes; I quite concur in what Lord Devon has said upon that subject.

133. The

133. The two subjects?—Upon the two subjects.

134. Referring to that portion of the Bill in which provision is made, in case of subdivision, for a penalty, and for the imposition of the poor-rate, do you agree with the soundness or the propriety of this provision?—Generally speaking, I am not fond of penalties, nor do I think that penalties generally are a good mode of promoting improvement; but I think if on the one hand you facilitate the subdivision of land to a certain extent, you must guard against the abuses which attend a subdivision below that point, and I do not see how those are to be guarded against except by some system which you may call a penal one.

135. Generally speaking, would you be disposed to say that the provision of the Bill is in this respect a proper one, and as good as is attainable under the circumstances?—Yes, I think it is.

136. Are you of opinion that there are in Ireland persons who are able and would be willing to acquire such small estates as are proposed by this Bill?—I think there is now in Ireland a very large class of people who have made money in trade in country towns, and everybody knows that there is a great desire in Ireland to acquire a permanent interest in land. I think that of that class there would be found a great many who would be ready to take advantage of the provisions of an Act such as this; and perhaps I may just add to that, that I think that class of people, men who acquire a permanent interest in land, to the extent of 20 or 30 or 50 acres, would constitute the very best class that could be imagined for the social improvement of Ireland. I think that the working farmer in Ireland, the man who holds about that quantity of land, is almost the only class, I was going to say, in Ireland which ranks in its proper position; the large farmer, I am afraid, and almost every other class in Ireland, are in the habit of living beyond their means, and they occupy, or fancy that they occupy, a position which they really are not intended for.

137. May I also ask you whether you are of opinion that the objects of this Bill would best be effected by means of a joint stock company?—I do not see any other means by which they are at all likely to be effected; people do not purchase estates for the purpose of selling them again.

138. Generally speaking, may I ask you whether you have considered the Bill in its provisions, and whether you are of opinion that it would be a salutary and good measure if passed by Parliament?—I cannot say that. I have considered the provisions of the Bill very much in detail; but I think the general object of the Bill an extremely useful one.

139. *Committee.* Do you agree in the disinclination which Lord Devon was understood by the Committee to express to the multiplication of the class of persons holding land under lease in perpetuity?—No; if a lease in perpetuity is rendered an indefeasible tenure, which I believe to be contemplated at the present moment, I do not see any objection to the multiplication of the class of people who hold by a tenure of that description; the objection that I see to the tenure of a lease of lives renewable for ever, is its uncertainty, and the liability under which the lessees are to have their title defeated, either by their own laches, or by its being complicated, and by the laches of others, where it becomes vested in a number of persons.

140. Where it is a lease upon lives renewable for ever, do you see no difficulties in the way of creating an increased number of lessees, or sub-lessees upon that tenure?—I do not see myself any great objection to a tenancy for ever, as compared with a proprietorship in fee, provided the tenure is really for ever. I do not think that a man is worse for paying a rent, provided his title is indefeasible, except for non-payment of rent.

141. Do not you think that you do away with one of the recommendations of this Bill, which is, that in the acquisition of capital already made by the parties who are to take your land, you have to a very considerable extent a guarantee for their sufficiency for the fulfilment of the duties which they are about to undertake, and that on the other hand, if you let your land to a small holder under a lease in perpetuity, you have in point of fact no such guarantee at all?—Certainly; I understood the question as more of a general character.

142. I understand that you do not entertain the general objections, but still do you agree in saying that there would not be the same reasonable expectation of advantage from the letting of leases in perpetuity to small lessees, than there would be from the sale of small portions of land to small proprietors?—Certainly.

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143. Therefore, although you do not entertain a positive objection, you do not see the same strong reason for including in the Bill powers that would go to the creation of that small class of lessees?—Certainly not.

144. Do you agree with Lord Devon in respect to the minimum of 20 statute acres as being the proper minimum to fix?—It is difficult, of course, to arrive at a very accurate opinion with reference to the minimum, but I think it can easily be shown that in some of the most improved parts in Ireland, and on some of the best estates in Ireland, the tenants occupy not more than 20 acres. I have in my hand an account, which I made out this morning, of an estate in the north of Ireland, which is very well known. I do not like to name the proprietor to whom it belongs, but it is very well known to be one of the best managed estates in Ireland, and to have one of the most comfortable and improving tenantry. I had an opportunity lately of seeing a very accurate survey which was made of the tenantry, in all their relations, upon that estate, and the result is rather a curious one. It is a large estate, containing nearly 25,000 acres, of which the greater proportion (above 21,000) are arable. The number of occupiers, excluding towns, living upon the townlands of which that estate consists, is 1,701 families. When you come to deal with those 1,701, you find that of them there are living under the occupier, who are not tenants, 751 families, and 198 who hold at a mere nominal rent, and who are not tenants either; that is 949, so that the actual number of tenants, of farmers if they can be called so, is 752. Of those 752, 744 hold immediately under the head landlord, and there are only eight who hold under middlemen. Of these 752, 644 hold between 10 and 50 acres, and only 48 hold above 50; but it is perfectly well known that the tenantry upon that estate are a most comfortable and improving tenantry; as much so, and perhaps more so, than any tenantry that could be seen in any part of Ireland. I may as well add that 460 of them hold by lease; they comprise in area nearly half the estate; so that you have that estate with a most comfortable tenantry, the great majority of the tenants holding under the head landlord, more than half of them holding by lease, and 644, out of 752, holding between 10 and 50 acres, and only 48 above 50 acres. The same thing could be proved by a reference to some tables which were, I think, referred to by Lord Devon, and which appear in the Appendix to the Land Commissioners' Report. It is rather curious that in the province of Ulster, which every one knows is the most prosperous of the three provinces in Ireland in respect to the condition of the people, there are 42 per cent. who hold between five and 15 acres, which is a larger per-centage than in any other province in Ireland.

145. They carry on other occupations besides, do they not?—Formerly, certainly, a great many of these were weavers of linen, and many of them now cultivate the flax; but I think that the manner in which they cultivate flax now rather constitutes the cultivation of flax as a part of agricultural operation, than as a manufacture. They cultivate flax, and they prepare it to a certain extent, and then sell it as a raw material.

146. It is an agricultural operation?—It is an agricultural operation.

147. Mr. Smyth.] However, I believe the general fact to be this, that in the county of Down, which is one of the most peaceable and prosperous in all Ireland, the number of small farmers is greater than in any other part of Ireland?—Yes.

148. Committee.] Do not you think that the circumstances of the province of Ulster give such a different complexion to the parties having small holdings, that we should be unsafe in arguing from the case of Ulster to the case of Ireland generally?—Generally speaking, I am not at all an advocate for very small farms. All I meant to say was this, that I think the question of very large farms may be carried rather too far, and I think practically in Ireland you will find that the occupying farmer, from 20 to 50 or 100 acres, is the most industrious, and in many respects the most useful class of farmers that we have.

149. The Committee were rather disposed to direct your attention specifically to this point. Assuming that it is desirable to create a class of proprietors holding small quantities of land, quantities, say, under 50 acres, the precise point is what the minimum should be by which it should be limited?—The minimum in the Bill is 20 acres. If I gave an opinion upon that subject,

I should

I should say that that is perhaps rather too small. I should say 25 or 30 acres would have been better.

150. What is the difference between an English acre and an Irish acre?—It is between a third and a half, I think.

151. Then 20 acres of Irish land would be 32 acres statute?—Yes; of course, the minimum, I suppose, ought to be that which will afford sufficient employment for the occupying farmer and his family.

152. You mentioned that the subdivision of land in Ireland in very large farms was not advisable?—I said that I thought people perhaps carried the principle of cutting up Ireland into large farms too far; that judging by the English analogy, where a large farmer is considered a very useful person, it might be supposed that he would be useful to the same extent in reference to the state of Ireland.

153. You think that a very large farm is not so advantageous as one of a smaller description in Ireland?—Yes; in the state of Ireland I think so.

154. You would like 100 acres better than 500?—I think even smaller than 100 would be better. I think that where a man acquires a considerable quantity of land in Ireland, he has a tendency, which I suppose we all have, to feel himself above his position, and he either sabbles, in order to consider himself an estate gentleman, or sets up as a gentleman, and keeps his hunters instead of minding his farm.

155. Do you think it would be advisable in this Bill to state the maximum that the company should let?—I think you ought to state the maximum.

156. Has it occurred to you to consider whether the inducement that the company will have in the larger prices for which small lots of land will sell, will be sufficient to prevent their letting their land in too large portions, or do you think that it will not be sufficient?—I should think on the whole it would.

157. In your experience as a landed proprietor, have you had an opportunity of observing much of the condition of the tenants from 20 to 30 and 40 acres of land?—Yes, I have.

158. And have you a very good opinion of that class, as a class, compared with other classes?—Decidedly so.

159. You have said that you would prefer 25 or 30 acres as the minimum?—Yes, I think so.

160. That is, statute acres?—Statute acres.

161. You stated that, from your knowledge as a landed proprietor, you conceived that people holding 30 and 40 acres, or under 50, were a thriving class generally?—Yes.

162. Can you state what the condition of those people generally was during the last two years, at the time of the failure of the potato crop?—The very extraordinary visitation which has afflicted Ireland has affected all classes more or less, and the smaller the means of any farmer may have been, the more heavily that calamity has pressed upon him; and therefore if you compare a farmer of 30 or 40 acres with a farmer of 500 acres, I should be obliged to say that he has suffered more under that calamity, but I think that that class have borne that calamity very well upon the whole.

163. Do you conceive, from your knowledge of what they suffered during the last two years, that people holding from 30 to 40 acres would be able successfully to cultivate their land and to support their families in independence in case we lost the potato crop altogether?—Yes, I think they would; I think they would immediately apply themselves to a system of green crops, of turnips and so on. I think they are a very industrious and improving class; the owner of a farm of that kind looks very sharply after his farm himself.

164. In your part of Ireland, do you find that they turn their attention actively to the cultivation of the new species of crop?—I think so.

165. In your part of Ireland, have they returned with avidity to the cultivation of potato, or do they still keep up that improved system of green cropping, which they introduced during the two years of the famine?—Certainly, as far as I have had an opportunity of knowing, I think that the people of Ireland have returned this year with very great avidity to the cultivation of the potato, from the hope that the blight is over.

166. Then as long as the cultivation of the potato continues, and consequently is subject to the recurrence of the disease, do you conceive that these people will be also subject to the same disasters that they suffered during the last two years, holding that quantity of land?—If the potato crop should

G. A. Harcourt,
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be a failure again this year, I think it will be very much abandoned; but of course as long as the potato crop continues liable to this blight, and as long as people continue to cultivate it, they will be subject to the same difficulty.

167. You stated that in the north of Ireland you found that the people generally holding from 10 to 40 acres were a thriving class?—Yes.

168. Do not they cultivate the flax there very much?—They do.

169. To the exclusion of the potato crop?—I do not know to the exclusion of the potato crop; but they cultivate it very much.

170. As a green crop?—I do not know that I can call it a green crop exactly.

171. You stated that there was a class of persons, such as small traders or shopkeepers in the towns, who had accumulated money, and were anxious to acquire land with that money?—Yes.

172. From your practical knowledge of Ireland, do you conceive that that class would cultivate the land themselves, or would only purchase the land as an equitable investment, keeping a tenantry at will on that land?—I think the man who purchased 30, or 40, or 50 acres would cultivate it himself; but I think if you take a larger class of capitalists, men who would purchase 200 or 300 acres, it is very likely they might purchase it as an investment, and either subdivide it or let it in the whole.

173. With that great avidity that there is for land in Ireland, do you conceive that the people purchasing land will lay out their whole capital for the purchase of that land, or will reserve any portion of that capital for the proper cultivation of that land, and for the erecting of farm buildings, &c.?—There is no doubt that the avidity for land is so great that people in Ireland are too much inclined now to spend their whole capital in purchasing land; you see it in the case of what is called the tenant right in the north; the evil of the tenant right is, that they spend too much of their money in acquiring the possession of the land, and have not enough to provide farm buildings and proper cultivation.

174. If that prevails to the extent of the whole capital laid out in the purchase of land, do you conceive that it will tend to the establishment of an independent body of yeomen in Ireland?—Certainly not, if the whole of the capital is spent in the purchase and nothing is left for the cultivation. I should rather imagine that a man would not spend the whole of his capital in purchasing so small a quantity of land as 30, or 40, or 50 acres, because he of course would feel that it would be of very little use to him, unless he had the means of afterwards cultivating it.

175. With respect to the cultivation of 20 or 30 acres, is the Committee to suppose that there would be any of that class who would be dependent upon the potato entirely; all persons having 20 or 30 acres would grow other crops besides the potato, would they not?—Certainly. During the late calamity, perhaps, they have suffered less upon the whole than other classes; unless you go to the very large farmer, whose capital perhaps has enabled him to sustain the visitation, certainly I think that the farmer of 30 or 40 acres has suffered comparatively little during the late visitation.

176. Do you concur generally in what fell from Lord Devon on the subject of the payment of the purchase-money by deferred instalments?—I think it will be necessary to restrict it in some way for fear of the transaction not being a *bona fide* purchase. I think it would be perhaps desirable, in order to guard against the whole of a man's capital being spent in the purchase in the first instance, to dispense with the necessity of the whole purchase-money being paid; but I think that a considerable amount ought to be paid in the first instance, and the remainder by instalments.

177. About what portion?—Perhaps the half.

178. Do you think it would be wise to include in a Bill of this kind any provisions, having in for their object directly to secure the erection of buildings upon the lots of land into which the Company is to divide what it may acquire?—I think not. I think that if you propose to give a man the free-simple of his purchase, the more free you leave him, consistently with the necessity of preventing subdivision, the better.

179. The erection of buildings would manifestly have a very powerful tendency towards preventing subdivision, would it not?—Yes.

180. Still you do not think that it ought to be made the direct subject of legislation?—I think not; because I think where a man purchases for the purpose

pose of occupying, he will necessarily contemplate the erection of building, and it is difficult, perhaps, by legislation to provide for those details.

181. You do not much fear the parties purchasing lands with the intention of occupying those small lots, provided we take effectual security against subdivision?—No, I think not.

182. If we do not take effectual security against subdivisions in other parts, then it is very much to be apprehended, is it not, that a class of purchasers would come in, buying from the Company lots of 20, 30, 40, or 50 acres, and that those purchasers would re-sell them in very small portions?—Yes; I think there is great danger that a man would purchase intending to occupy, and that finding he had not the means to do it, he would be induced to sublet, or to sell in small quantities again.

183. Mr. Sneyth.] In your opinion would the establishment of this Company tend to diminish agrarian outrages?—Anything which tends to give people a permanent property in the land, of course will tend to diminish agrarian outrages, and enlist them on the side of good order. As I have spoken with reference to the larger description of farmers, perhaps I ought to say, that I think, although I made some disparaging observations with reference to that class, that of late years they have been improving very much; they have been applying themselves much more actively than formerly to their proper occupations as farmers. In the evidence taken before the Land Commission there was one gentleman, a Mr. Robertson, a Scotch gentleman, who is now agent to Sir Stephen Glynn, I think, who stated what appeared to me to be very true; that in his opinion there is no intermediate grade between a working farmer of 40 acres, who holds his own plough, and a farmer who occupies several hundred acres. Now, I think that that is peculiarly the case in Ireland; I think that the farmer who holds his own plough and the farmer who has a very large farm and means for carrying it on are the two classes of farmers who are the most likely to effect the social improvement of Ireland; I think the middle class of farmers who hold perhaps 150 or 200 acres, and have not means sufficient to carry it on, are the worst description of farmers.

William Mowatt, Esq. a Member of The House, Examined by Mr. Sneyth.

184. I BELIEVE you are a large Landed Proprietor in the county of Limerick?—I am. W. Mowatt, Esq.
M.P.

185. Have you considered the subject-matter of this Bill, and the provisions, particularly the amendments which are proposed to be introduced here, if the Committee shall see fit?—Yes, I have.

186. Generally speaking, do you consider the Bill and all its provisions to be such as would be, if passed into a law, generally beneficial to the country?—I am quite sure that it would be extremely beneficial at any time in Ireland if such a Bill passed; and I think that the Bill which is now before the House of Commons for the sale of encumbered estates would very much facilitate the working of this Bill, which makes it much more desirable that it should be passed now than at any other time.

187. I believe you have been in the room for a considerable part of the day, and you have had an opportunity of hearing portions of the evidence given by Lord Devon and Mr. Hamilton?—I heard Mr. Hamilton's evidence; but during Lord Devon's evidence I was obliged to be in the House of Commons.

188. Generally speaking, do you concur in the evidence which Mr. Hamilton has given in favour of the Bill?—In its main features I do.

189. Does the Bill as it stands meet with your approval, or have you any amendment to suggest in it?—In the first place, as to the 20 acres, I should suggest having a larger number as the limit of subdivision. I think that instead of 20 acres there should be inserted at least 30. I think 20 acres would be too small.

190. Do you mean 30 Irish acres, or 30 statute acres?—Thirty statute acres.

191. Committee.] Twenty Irish acres would meet your view?—Yes; but I rather think that the Irish acre is not a legal measure.

192. Mr. Sneyth.] Do the prohibitions in this Bill against sub-letting meet with your approbation?—Decidedly. I think it quite essential to have those provisions, although at the same time I should look upon them rather as pro-

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visional than permanent ones. I think that there is already a very great change of feeling in Ireland on the subject of subdivision, but still I am afraid it has hardly gone far enough to render it likely that this Bill would work well without some provision of the sort. I think that the causes which have produced subdivision in Ireland have been artificial, and I am afraid that at this moment, wherever you can, you must provide an artificial remedy.

193. Are you at all aware of the practice in other countries as to preventing the sub-letting of lands; has your attention been called to that subject?—In Austria no property is allowed to be less than 66 acres. In Bavaria, and in Nassau, I believe there are similar provisions, and it was attempted at the first meeting, I think, of the assembly in the Rhenish provinces by the government of Prussia to introduce some measure of the sort, but it was rejected; whether it has been passed since or not, I do not know.

194. Are you acquainted with the practice in the Channel Islands, with reference to this matter?—Property is very much subdivided in the Channel Islands; it is divided in the island of Jersey to somewhere about, on the average, eight acres, and I think in Guernsey to somewhere about six; but I think it right to state, that I consider it very unfortunate that it has been so much subdivided.

195. Having made the Committee acquainted with the extent to which you have addressed your attention to this particular part of the subject matter of the Bill, will you give me leave to ask you your opinion with respect to that provision of the Bill which contemplates the payment of the purchase-money by deferred instalments?—I think it is very desirable indeed to give the company the power of taking the payment by instalments, if they so think fit.

196. Do you think that the practical effect of leaving a portion of the purchase-money outstanding would be beneficial?—I think it is desirable that the company should have the power of leaving a portion of it outstanding; of course it would be much better that in every instance the purchaser should, if he were able, pay the whole purchase-money. I may perhaps mention here a custom which obtains in the Channel Islands; I do not know that it is generally done, but very often the person purchasing land pays down a quarter of the money, and three-fourths of it remains as a sort of mortgage upon the property, but I should think that that was much too large a proportion to leave.

197. What would you say to some such provision as that of paying down one-third, and that the remaining portion should be paid by instalments which should not exceed a period of 14 years?—I think one-third would be much too little; at least one-half I should think ought to be paid down.

198. Are you of opinion that the establishment of a body of farmers in the way which this Bill contemplates, would tend to diminish agrarian outrages in Ireland?—Yes; I think if they were generally established, they would; I do not wish the Committee to understand that I imagine that the mere operation of this Bill would diminish agrarian outrages.

199. *Committee.* So far as it goes?—Yes.

200. *Mr. Sturt.* Do you or not think that the objects of this Bill would be best effected by a joint-stock company?—I knew no other mode.

201. *Committee.* Can you state the average value of 30 acres in Ireland?—I am afraid one could hardly convey any information to the Committee by stating that, because it is so very various in different parts of Ireland; I think I have heard the average of the whole of Ireland stated at 18s. an acre, but I give it very loosely when I state that.

202. Have you considered the question whether it is desirable that the company now to be formed should have power to take land under lease in perpetuity, as well as to sell it?—Yes, I have considered the question; of course, I see the great difficulties of their doing so, but at the same time I am afraid that it is necessary to the working of the Act that they should be allowed to do so, because in many parts of Ireland, almost all land is held under that tenure. Taking the county of Clare, a very great portion of the county of Clare pays a head rent to the representative of the late Lord Egremont, the present Colonel Wyndham.

203. In the first place, is it absolutely necessary that the whole of Ireland should be laid open at once to a scheme which is experimental, and which can be tested in some one, or very few localities?—No; but I may state that if land were very advantageously circumstanced in other particulars, it would perhaps be almost a pity to prevent the company taking that power under this Act.

204. Assuming that to be the case, still, if the company were restricted to sell,

sell, might it not be left open to the company to acquire the entire interest in lands where there are now existing these leases, and where, therefore, they might exercise their powers of sale after having purchased up both the leasehold interest and the fee?—I am afraid it would rather interfere with the profits of the company if they were obliged to deal with head landlords for their head-rent.

205. Is head-rent a very favourite property?—Very favourite indeed; quite as good, I should think, as the funds.

206. But still, would it not bring its value to the company if it were bought even upon those terms; is it favourite in a higher degree than its real value justifies?—No, I do not know that it is generally so. In a great many instances, of course, people are very anxious to buy the head-rents which may be over their own property.

207. It would oblige the company to lay out a larger extent of capital in proportion to the field of its operations?—Certainly.

208. With respect to the minimum of 20 acres, and the practice in the Channel Islands, you were understood to refer to it with some regret; do not you apprehend that in the Channel Islands the condition of the people is extremely flourishing, and at the same time the rents paid to the landlords are very high?—No doubt land sells there at a very high rate indeed, I think as much as 150 £ an acre; a great deal of land there is valued at 5 £ or 6 £ an acre, but in almost every instance I think the very small proprietors there have other means of livelihood; there is a great deal done by them in the way of fishing.

209. Therefore the form of your argument would be, would it not, that although the subdivision is carried down so low in the Channel Islands, where the proprietors combine other means of livelihood with the holding of land, that would be no argument for adopting the same system in Ireland, where generally speaking, those small proprietors would not be able to combine such means of livelihood?—Just so; besides I rather doubt many of the accounts that have been given of the state of the people in the Channel Islands; I rather think that they are not quite so well off as they are often represented to be.

210. You have a very strong opinion that it is necessary to constitute a Joint-Stock Company in order to give facilities for this experiment of creating a body of small proprietors?—Yes, I have.

211. You do not think that even after the question of tide is cleared up by the passing of some measure in the nature of the Encumbered Estates Bill, individuals will be found ready to try the experiment sufficiently?—I very much think, indeed I confidently expect, that there will be a good deal of land sold in Ireland in much smaller portions than it has yet been in the habit of being sold, after the measure of which you speak has been passed; but at the same time I should think that it would perhaps not be carried to so great an extent as we should wish it to be; that the process would not go on so largely as one would wish; and besides, I need not point out to you that there is a very large class of persons who would be shut out from the advantages offered by this Bill, if they had to trust merely to the operation of self-interest on landed proprietors, because I should think that no proprietor would take payment in instalments for the land which he sold. I never heard of any instance of the kind, and I should think it extremely improbable.

212. Have you considered the question, whether it would be desirable to provide by law for the erection of buildings upon the lots into which the company might divide this land, as an additional means against subdivision?—I think it would be exceedingly desirable for every reason. I think it a most valuable suggestion, which if carried out would add very much to the value of the Bill. In the first place, people in Ireland are unfortunately, even when they are well off, satisfied with very miserable dwellings, and the nature of their habitation has a very great effect upon the moral character of the people.

213. In what form would you embody such a provision; would you require that a certain sum should be laid out in buildings, having reference to the acreage of the lot, or in what way would you frame it?—I never heard the suggestion until a very few minutes ago, so that I am not very much prepared with any details upon it, but it strikes me that it might be rendered necessary on the part of the company that they should expend themselves or require the expenditure of a certain per-centage on the value of the property sold.

W. MASON, Esq.

M.P.

19 July 1843.

Juris, 20^o die Julii, 1848.

THE RIGHT HON. WILLIAM EWART GLADSTONE, IN THE CHAIR.

John Hazkell, Esq., Solicitor-general for Ireland; Examined by the Committee.

*J. Hazkell, Esq.
20 July 1848.*

244. YOU hold the Office of Her Majesty's Solicitor-general for Ireland?—
I do.

245. Has your attention been drawn to a Bill before the Committee, intitled,
“ A Bill for the Establishment of the Farmers' Estate Society of Ireland ”?—
It has.

246. Is your opinion favourable to the Bill, so far as the general policy upon
which it proceeds is concerned?—It is.

247. Do you agree with the recitals in the preamble respecting the desirability
of the formation of a “ permanent body of independent yeomen ”?—I do.

248. Does your knowledge of Ireland enable you also to give your assent to
the allegation that there are many persons in Ireland possessing limited amounts
of capital, which they would be likely to employ in the purchase of small por-
tions of land, provided there were freedom of access to such purchases, and
facility as to title?—I have no doubt that there are, but to what extent I am not
able to form an opinion.

249. You have no doubt that there are persons so disposed, to an extent suffi-
cient to make it worth while to try an experiment with regard to it?—None.

250. Do you think it essential to such a Bill as this, that stringent provisions
should be inserted in it for the purpose of preventing the subdivision of lots
below that which is contemplated by the Bill as the minimum?—I think to
secure the safe working of the measure, that the strongest or the best possible
stringent means ought to be provided to prevent subdivision.

251. Would you attempt to attain that object of preventing subdivision below
the minimum by means of penal clauses, or would you trust to the more
general operation of motives that might be supposed to act upon the possessors
of those lots of 20 acres of land, or whatever they might be: it has been
represented to the Committee, that the possessor of 20 acres of land would in a
great many instances find so much of advantage and comfort in the absolute
possession of that portion of land, that he would be very unlikely to subdivide it;
would you trust solely to the operation of such motives, or would you endeavour
also to secure the object by means of penal clauses?—I should not trust to
the motives, because I think it would inevitably follow that the land would
be subdivided.

252. You look upon the tendency to subdivision as so strong that it could
not be counteracted merely by the advantage that the holder would derive from
its possession entire?—That is my opinion.

253. Have you given your attention to the question, whether it is possible to
devise penal clauses of such a nature as would in all probability effectually pre-
vent subdivision below the minimum?—I have considerable doubt whether any
provision will effectually, for any considerable length of time, prevent that sub-
division.

254. Do you think it would be possible generally to prevent it for some period
of time?—I think so.

225. Can

225. Can you name the period of time; do you refer to a generation?—
I should say a generation or two.

J. HANCOCK, Esq.

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226. You have no doubt seen the 15th clause of the present Bill, and you have observed the peculiar nature of the provision that is contained in it?—My attention has been, since I came into the room, called to those two clauses in fact, the 15th and the 18th, if the copy of the Bill which I have is correct, as a mode of preventing the subdivision. It occurs to me that there would be great difficulty in making the 15th clause effectual for that purpose in any way.

227. Could you describe to the Committee the nature of the difficulties which you anticipate in the way of the operation of that clause?—It appears to me that if there be a conveyance of the fee by the company to the purchaser, the introducing into that conveyance what would appear to be proposed by this 15th clause as it now stands, clauses or covenants, or provisions, for the forfeiture of the purchase, or giving the right of re-entry, or under the general words "or otherwise," is subject to this difficulty, that it does not provide who is to have the right of re-entry, or to whom the forfeiture is to result. Unless the clause be amended, and it be distinctly stated to whom the right of re-entry is to be reserved, and who is to have the benefit of the forfeiture, I do not understand how it can be made available for any purpose with that provision, because it is adopting provisions unanalogous to clauses between landlord and tenant. If the company are to be constituted, by this Act of Parliament, a continuing body, to whom the title of the land and the possession of the land is to revert in case of subdivision or a violation of those covenants or contracts, that is intelligible. Then the Committee must perfectly well understand that they are to be in the nature of a continuing corporate body, who would have that right to the same extent as a landlord would have.

228. Is it your opinion then that the operation of any provision of that kind should be confined to cases in which a portion of the purchase money shall have been stipulated to be paid by instalments, and should be limited to the time anterior to the full payment of those instalments?—I should say so; that for that purpose it is perfectly intelligible and would be quite available, because it would be like a power of re-entry in the case of a mortgage, in case of the nonpayment of the mortgage money.

229. But your opinion is that when the company sells to a purchaser, the relation between the company and the land terminates for ever?—Yes.

230. Assuming that the whole purchase-money has been paid?—Yes; there would be no right whatsoever of forfeiture or re-entry reserved to them legally; at least it does not occur to me. The Committee must come to the conclusion that the company themselves are to be placed in that condition, and have those incidents to their character, as a company.

231. You would wish us to understand, that in your view it is quite a different thing to constitute a company for the economical and social purpose of acquiring land, in order to part with it for the purpose of trying a great social experiment, and to constitute a company which shall be a continuing landlord?—Quite so; quite distinct.

232. Will you have the goodness to direct your attention to the 18th clause. In the first place, the Committee would be glad to know whether you approve of the form in which the earlier part of that clause stands, according to which the penalties upon subdivision do not accrue immediately upon the breaking up of those lots of land which have been parted with by the company, but they only accrue when they are so broken up as that in any given case, taking into account other lands held by the same occupiers, there shall not be an aggregate of 20 acres. Do you think it wiser to frame the clause in that way, or to say absolutely that the company shall part with its lands in certain lots, which shall be of themselves absolutely indivisible, quite irrespectively of any other lands that may be held by the occupiers of them?—That is clear, in my opinion.

233. You prefer the latter mode?—I do.

234. You are probably of opinion that it must lead to much difficulty and

J. Hulke, Esq.

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vision in ascertaining the facts, if you allow a lot of 20 acres to be broken up into four lots of five acres, and then have questions to examine as to other lands held by the holders of the five acres?—Quite so. I think such an enactment would be pregnant with great litigation probably, and difficulty, and perhaps could not be made ultimately available. I have just been considering that very case. I have understood from Mr. Jeffers that there is to be 30 acres; however 20 acres will just illustrate the position. Take it that there are four farmers who have each 50 acres in the vicinity of one lot, call it the farmers' estate lot, of 20 acres; then, if that farmers' estate lot were sold to them, they deriving under the company, each would have purchased from the company five acres. Each of them might hold the five acres plainly consistently with the Act of Parliament. After a possession of 20 or 30 years in the case of one of the men who had held 50 acres, and held one of those lots, his interest in the 50 acres altogether expired, he would then be the owner in fee of five acres, and have no other property whatsoever in the country. Then the mischief at once would be apparent; he would be the owner and occupier of five acres, being under the limited quantity, and he would not be the owner of any property adjacent. The difficulty would be, where would it revert to. If the penalty were that it was to become chargeable to the poor-rate equivalent to half its rated value, it might be considered, after a lapse of time particularly, a very great hardship that it should become charged in that manner, not by default of the party perhaps who would be the owner of it, but by the mischievous legislation which had passed, probably, 20 or 30 years before.

235. You are of opinion, then, that those minimum lots, whatever the minimum be, should be absolutely indivisible?—I would say that integrity should be preserved as regards this purchased property, unmixed with adjacent lands. Other difficulties would suggest themselves, such as confounding the boundaries. With respect to a number of the small glebe lands in Ireland, their identity has been actually lost from some of them being mixed with the adjoining lands, and I think that it would lead to great mischief. That is my opinion.

236. Would you see any objection to a joint proprietorship in respect of these lots: supposing the case of two brothers, for instance, would you require the lot to be sold to a single purchaser, or allow a joint proprietorship in it?—If you sell to two brothers, you must necessarily sell to them with an understanding that they are to be at liberty to divide it, and the survivor to take the whole; then the mischief of subdivision occurs at once.

237. Therefore it would be necessary to require that it should be a single interest to which you sell?—That is my opinion.

238. Assuming those points to stand so, adverting to the matter of the penalty which is appointed to accrue, you think that, as a general rule, it would operate at all events for a considerable time, to prevent pretty safely the subdivision of those lots?—I think it would. I think the provision is somewhat anomalous; but upon turning the matter in my mind, nothing occurs to me more eligible as a device or as a means of restraining the subdivision, and applying the penalty.

239. Another form of the clause has been before the Committee, according to which the penalty would be not one-half of the rated value, but five times the amount of the poor-rate falling in the district or division?—That might be an infinitesimal quantity; the poor-rate might be nil, and then there would be no penalty.

240. You prefer this to any such penalty as that?—Decidedly. To have any force, it must be, I think, in this form.

241. You prefer this to any penalty incident simply to the persons and not to the land?—That, I think, would be wholly unavailing.

242. Do you prefer this to another mode of procedure which has been suggested: namely, that the conveyance should be avoided in case of any subdivision of those lots, presuming it to be done by sale; and that the lease should be avoided, presuming it to be done by letting on lease?—That comes under the objection to the 15th clause, that you must have a person to whom the forfeiture would

accrue,

accrue, and who would have the right of repossessing the property forfeited by the breach of the condition of the deed.

J. Hatchell, Esq.

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243. As the clause now stands, there are persons provided who will have an interest in carrying it into effect; namely, the body of those who pay the rates in the district?—I think so; that is the reason why it does not occur to me that there can be a better mode of making it available. If it be given to the electoral division, the interest of the other ratepayers may induce them perhaps to furnish to the guardians the means of detecting a secret conveyance, or a division of the land; they have an interest to carry it out: and then the guardians have an interest; they are personally concerned, being themselves ratepayers, to lighten the rate by enforcing the penalty.

244. But they would have no interest in a case where it was provided that the lease or the conveyance should be avoided, inasmuch as the benefit would not go to them?—No.

245. Do you think that it would be better simply to enable the company to purchase and to sell; or would you, besides enabling the company to purchase and to sell, enable them to take leases in perpetuity, and to give leases in perpetuity?—I think that leases in perpetuity are very objectionable in their own nature and character; of course they would be leases on lives, renewable for ever. That is the way I understand it; it is the most simple form of lease, and is generally used in Ireland as a lease in perpetuity. That description of tenure has been considered so objectionable that there is at present a Bill before the House of Commons for the purpose of converting that into a fee-farm tenure, in fact, which is the fee subject to the payment of a rent.

246. Would you object to giving to the company the power of purchasing leases in perpetuity, provided it were limited in this way: that they should only be able to purchase the lease in perpetuity when they could also purchase the fee, and thus acquire the entire interest in the land; and that, on the other hand, they should not be able to give any lease in perpetuity, but only make a complete sale?—I conceive that to be a very notobjectionable mode of dealing with lands in Ireland; if they can acquire the fee simple and also the tenure in perpetuity, on a lease for lives, renewable for ever, the one will merge in the other, and they will acquire the fee in that way. Then they may convey it in fee to the purchasers in small portions.

247. But you would not allow them to convey in any other manner but in fee?—It appears to me that unless, as I originally stated, the Committee suppose a principle, which I rather think they have not at present supposed, and which I do not understand to be the principle of the Bill at all, that this body is to be a continuing body, representing owners of property in Ireland in perpetuity, they must part with the whole interest, not reserving a rent in any way. If you give them the power of reserving a rent, you at once constitute them a corporation, with the power of holding lands and receiving rents. I do not see that it is compatible with the object of the Act that they should make leases and reserve rents.

248. Have you given your attention to the subordinate or executory portions of the Bill, as to the forms and effects of the conveyances, and so on?—I have not. I think it right to state to the Committee that my attention having been called to the 18th clause, even for the purposes intended by it, it occurs to me that it might be considerably amended in the manner which I have suggested, that the clause should be prohibitory of subdivision. I do not bind myself to these words, but I have introduced them merely as a sketch: "That it shall not be lawful for any person, being the purchaser of land from the said company, or any person deriving by, from, or under him, or who shall in any manner be entitled to the possession of such land, to assign, grant, convey, lease, devise by will, or in any other manner part with the possession of the said land in any quantity less than 30 acres;" and then to go on, that in case any farm or piece of land shall be so divided, it shall then become subject to the additional clause.

249. Do you consider that the 18th clause is a prospective clause, namely, supposing that the company purchase lands and purchase all the interests upon those lands, not only purchasing the lease in perpetuity, but also in case any

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occupier holds a lease, purchasing that lease also; and supposing that there may be persons occupying that land under 20 acres, will it be in the power of the company to sell any portion of that land, leaving people on who at the time of the purchase hold land under the 20 acres, or will they be obliged before they sell that land to clear it from the occupiers, so that there shall be no person holding under 20 acres at the time of the sale?—I believe the 14th clause is prohibitory of the company selling any quantity under a certain amount.

250. But they may sell the full 20 acres, and at the time they sell, there may be people on those 20 acres holding four or five acres a piece?—I understand the question perfectly; whether the company in fact having purchased, subject to certain persons holding small quantities, they can afterwards sell, leaving those persons in possession.

251. At the same time not selling less than 20 acres, but selling, in fact, the land occupied by a parcel of tenantry to a new proprietor, or would they be obliged to clear that portion of the land before they could sell it?—It would depend entirely upon the construction of this 14th section. As I understand the object of the Bill, it assumes that the land is clear of occupiers, and then that the company sell 20 acres to an individual, with the view of himself occupying it, and fully occupying it, to the exclusion of all others. If that be the object of the Bill, then the Bill should be framed in such a manner and in such phraseology as to take care that that mischief should not occur to which you have adverted. If the company purchased the fee-simple of 20 acres of land, with four persons upon it, each having five acres, and they sold it to another person, that, I take it, would not be at all within the object of the Act, because it would not anything like carry out the Preamble of the Bill; it would not give you a resident yeomanry of 20 acres, but it would give you the land, and four pauper tenants or five pauper tenants upon it.

252. Do you think that the 18th clause provides sufficiently for that; that it prevents such an inconvenient result?—The 18th clause contemplates the case of a purchaser going into possession of his own 20 acres, and having been thus in possession, and getting his possession clear of any other under-tenants on the land, that he or any person deriving under him, shall not subsequently subdivide that land.

253. This section will not prevent the company selling to any person the 20 acres, even though there may be four tenants on those 20 acres?—That is assuming a state of things which the Act does not provide for; on the contrary, as I understand, it contemplates the impossibility of its occurring. It occurs to me that the 14th section should be amended, so as in the first instance to prohibit the company from having the power of conveying or selling to any person occupying, except a given quantity of 20 acres, or whatever may be the quantity, to a person who shall actually reside upon the premises at the time he becomes the purchaser.

254. With respect to the 18th clause, is it not clear that an individual might buy 100 acres of the company, and immediately sell it again to five individuals who were to hold 20 acres each?—Yes.

255. Do not you think that that power would give rise to a great deal of what may be called land jobbing; that individuals would come and purchase a larger extent of land than the 20 acres, for the sole purpose of re-selling it, and jobbing in that sort of way in land?—I have no doubt of that.

256. Do not you think that if some means of guarding against that could be contrived, it would be an improvement in the Bill?—I do.

257. With regard to the 30th clause it appears that power is given to borrow money by the company, and to charge the money upon the lands which they have purchased, and so to charge it upon the purchasers again from them. Do you think that that is a desirable arrangement?—As I understand this clause, supposing the property purchased by the Company is resold, say in lots of 50 acres each, each lot will carry with it a portion of the incumbrance upon the land, in proportion to its extent, on account of this 50,000 £. which is to be raised upon the whole estates of the company. In that case I take it that the purchaser, the settler as I may call him, will take his 50 acres charged with a mort-

gaged

gage debt, and of course that would be taken as part of his own purchase-money. For example, if he buys 50 acres of land, and has to pay 1,000 £ for it, and it is subject to 300 £ as the proportion of the mortgage debt, then he will pay 700 £ and get his 50 acres charged with the mortgage; it is a debenture debt, as I may call it, of 300 £.

258. Which counts as 300 £ paid as between him and the company?—Yes. If they are 100 £ debentures, the holder of those three debentures may come upon him or his land at any time to enforce the payment of the money.

259. Do you think that that is a desirable arrangement?—I do not. If 5,000 acres are sold in 50 lots, and each does not bear its own proportion of the 50,000 £ charged, some one of those lots must bear 500 £ instead of 300 £, if the other is discharged of the mortgage debt.

260. Do not you entertain some apprehension that the purposes of the Bill might be, to some considerable extent, evaded through the operation of the provision as it stands; that, in point of fact, there would be very little of the character of a *bona fide* purchaser in a man taking a small lot of land, charged perhaps nearly up to its value with a mortgage debt?—It appears to me to be objectionable, having given very little consideration to it, for my attention is only just called to it; I think, upon the whole, that it would be an objectionable thing. We will take it whether a man obtaining 50 acres of ground would be a substantial yeoman, within the objects of the Bill; if he took it with a debt of 300 £ upon it, he must pay the interest of the money, and he is liable to be called upon at any time to pay the full sum.

261. Have you read the Encumbered Estates Bill?—Yes.

262. In that Bill there is power for the creditor to sell any portion of the land he chooses upon which the mortgage is charged. Under this clause may not any mortgagee therefore come in and sell any portion of the land that has been purchased, in fact, for the recovery of his 1,000 £, and sell the whole of one lot to the exclusion of all the others?—No doubt about it, unless he is restrained by his contract, and it is not likely that he would submit to such a restraint in his contract; but to make this a working thing the character of the debenture should be this: that it should be only payable out of each and every acre, as it were, and that if I had 100 £ debenture, if this 50,000 £ is to be raised in that way, I could not select some particular lot from which to pay my money.

263. Do you think that the company, not contemplating the permanent holding of land, but merely the transmission of land from the present set of holders to another set of holders, such a company ought to be empowered to borrow on mortgage at all; is it not contrary to the spirit and idea of such a company that it should borrow on mortgage?—I have really not considered it. It strikes me to be altogether not consistent with the general object of the Act of Parliament.

264. With respect to the 35th clause, under that clause it says, "No lands to be taken unless by agreement with owner;" "the owner thereof, or other person or persons empowered by the Lands Clauses Consolidation Act, or this Act, to sell and convey the same." In the 8th clause of the Lands Clauses Consolidation Act, I think the tenant for life has the power to sell, and would not this clause give him the same power?—I did not understand that the object of this Bill was to purchase any man's land from him except with his consent, and with the consent of the person having the disposing power of it. I should say it would be a very improvident clause in a Bill of this kind, to enable a sale to be effected for the purpose of this Act, where there were remainder men, or reversioners, or any interest, unless the party had as much the right to sell as if he sold to you or to me. The Lands Clauses Consolidation Act is a code of law applicable to a different thing altogether.

P. D. Jeffers, Esq.

Patrick David Jeffers, Esq., called in; and Examined by Mr. Smyth.

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265. YOU are a Solicitor in Dublin?—I am.

266. A partner now with Sir Matthew Barrington?—Yes.

267. Are you enabled to state that the measure which forms the subject-matter of this Bill has been deliberately considered by the promoters for many years past?—The general principles of the measure have been for a long time considered, and several charters prepared I believe for the very purpose.

268. The measure is not then a new idea, which has been hastily taken up and brought forward without deliberate consideration?—It is not. Sir Matthew Barrington has had the measure under consideration for a great many years; I should say 10 years at least.

269. You were here during the time that my Lord Devon and Mr. George Alexander Hamilton were examined, were you not?—I was.

270. You recollect the passages in the Parliamentary Report which were read to my Lord Devon?—I do.

271. Are you enabled of your own knowledge to state how far the recommendations of the Report of the Land Commissioners in this respect a regood and applicable to Ireland?—Most unquestionably they are.

272. I believe, though a solicitor practising in Dublin, you have spent a good part of your time in the country; you are not a metropolitan?—No, I am not. For many years I was assistant to Sir Matthew Barrington, as Crown solicitor, on the Munster Circuit, and in that capacity was acquainted for 13 years with the history of every case of magnitude that came before the courts, and for five or six years I was myself assisual solicitor for the county of Kerry, which brought me in contact with the lower orders of people, probably to as great an extent as any person in Ireland, and I have had the means of knowing a good deal about their feelings and habits and condition.

273. Have you also had, in the course of your practice as a solicitor, some considerable business with reference to the sale of estates in Ireland?—Yes; we have sold a great deal of land in our office at different times.

274. Are you enabled to state to the Committee what classes of persons in Ireland would be likely to avail themselves of the benefit of this Bill, supposing it to receive the sanction of the Legislature?—I agree with my Lord Devon and Mr. Hamilton, of course, with respect to the extent to which the lower class of the people, as farmers, many of whom I know have hoarded large sums of money, would avail themselves of it.

275. It is a matter of personal knowledge to you that farmers in Ireland have accumulated money?—It is a matter of personal knowledge to me that farmers in Ireland, who are not supposed by their neighbours to have any money or any means, have very large sums of money in banks, and generally lend to the neighbouring proprietors, on their bonds, upon which they do not enter judgment.

276. Then you think that that class of farmers would be disposed to come forward and invest these savings in the purchase of small estates under this Bill?—I do; I judge from the impossibility that exists of their getting any safe investment at present, from their anxiety at all times to get land, and from the very large sums which they have paid for what is called the goodwill of land, which is in effect a mere shadowy unsubstantial right. I know one remarkable instance, in which two farmers gave a gentleman, who was on his death bed, 1,100 l. for the goodwill of his farm. The farm was a very large one; I do not know the extent of it, but it was situated in a very good part of the country, and though he was the last life in the lease they actually gave him 1,100 l. for his goodwill, hoping thereby that they would have the preference over any other person for the next lease. Those were the men who were supposed by their neighbours not to have any money in the country. And no later than a month ago, a gentleman in Killybeg, who is agent to a property on which there are ten farmers, told me that he is repeatedly obliged to distrain them for their rent. He has the means of knowing that in a bank 20 miles off they have money, some of them amounting to 600 l., and he states that when they are distrained for their rent they go to Cork and raise money from the better merchants there at high rates of discount, and pay the rent therewith, rather than stir the hoard which they have in the bank. Those persons, he says, have never since they began to accumulate, improved

improved in their habits or appearance or dwellings; they have such a dread of *P. D. Jeffers, Esq.* being supposed to possess money.

277. *Committee.*] What class of people are they?—All farmers, such as Mr. Hamilton talked of yesterday; probably farmers holding about 20 or 30 acres of land. There is also another class, who I have no doubt will very largely avail themselves of such an Act as this, and that is the younger sons of the gentry, who have charges upon the estates. I know that of late years it has been very general in the south of Ireland for them to go to Scotland to be instructed in agricultural pursuits, and when they come back, many of them, with whom I am personally acquainted, seek to get leases through the country, and have very great difficulty. One gentleman last year was for many months looking out for some eligible farm, and at length he made up his mind to take one in some part of the country, which after some difficulty I believe he bought. But I have no doubt that that class of persons who have hitherto led idle lives, will either take part of their father's or brother's estates, or look out for small portions of land in the country.

278. *Mr. Sturt.*] That last statement of yours rather anticipates a question which I was going to put to you, which is this, looking at the situation of land in Ireland, whether it is not a matter of importance to let in a new class of purchasers?—I think that, from the operation of the Encumbered Estates Bill, which, with the Solicitor-general's clauses, will work very effectually, and from the effects of the late famine, which will throw a great deal of land on the market, and other causes combined, the quantity of land brought into the market will depreciate it too much, unless some means are adopted of letting in a new class of purchasers, who would come in under this or some similar provision; and I think, in order to keep land at its fair value, it is necessary to increase the market.

279. Your anticipation is, that if this Bill passes, and this company are enabled to offer land for purchase in small lots, it will tend to raise the value of land, by bringing in a number of persons to bid for it, who otherwise would not be able to approach it?—I think it will prevent the value of land from being unfairly depreciated; the land will, of course, bring a much less price than it did before.

280. Are you able to speak at all of any extent of feeling on the part of the public in Ireland, or of other individuals, in favour of the object proposed by the Bill?—Yes; a very general expression of feeling has been submitted by all parties, I may say all classes in Ireland, of any intelligence, in favour of this Bill.

281. Will you state either some of the persons or some of the classes?—By the desire of my Lord Clarendon, we sent circulars round to the Roman-catholic and Protestant clergy, and to landed gentlemen in Ireland, and noblemen connected with the country, and we received an almost unanimous answer in favour of the Bill. Generally, however, the parties who replied to our circular expressed a desire that stringent measures against subletting should be taken in any Act which should be introduced upon the subject. Not to trouble the Committee with detail, there are one or two of their replies, which I can refer to. What I am about to read now, I know to be the fact. My Lord Sligo says, "I have received a prospectus of the Farmers' Estate Society. My opinion of it is, that it unites the desirable qualities of being a first-rate and safe investment speculation, and a scheme certain to produce immense advantages to Ireland, in proportion to the extent of application. I believe it is the best of all the schemes I have seen to improve our political and economical state. I do not know how I can serve it, but if I can in any way, I will most gladly do so." My Lord Sligo afterwards went on the Committee. My Lord Clancarty says, "It is impossible for any person acquainted with Ireland to deny the importance it would be to her future welfare to create a body of yeomen through the country, such as is contemplated in the prospectus of the Farmers' Estate Society, and it accordingly has my best wishes for its success." The Roman-catholic Bishop of Derry, Dr. Maginn, says, "I have not received any communication at any time affording me greater pleasure than I have derived from the perusal of your luminous circular. Your Farmers' Society is, in my humble opinion, one of the very best plans hitherto devised for the amelioration of the condition of the Irish peasantry, and for the promotion of the tranquillity of Ireland. Among the names of your provisional committee I recognize some with whose benevolence I have been made familiar, and in whose honesty of purpose I have every confidence. The Earl of Devon, William Montell, Esq., James Fagan, and David Roche, give ample security to the public against delusion, partiality, or sectarian prejudice. I sincerely regret that I have not means at my disposal to become a holder of shares to a consider-

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able amount, if for nothing else but to testify the satisfaction with which I view this truly beneficent and patriotic project. I will take"—here it is blank shares, but he took two—"which you will consider merely as the sign of my unqualified approval." Then the newspapers in Ireland, representing three great classes in the country, approved of this measure. I will only read three extracts. The *Dublin Evening Mail* of the 11th February, says, "The undertaking in question, we have reason to believe, is supported most cordially by Lord Clarendon, and has in its own nature no single element of party discord. It is, in our opinion, capable of effecting much good in a variety of ways, to which we hope again more particularly to refer; and we trust it may receive not only fair play, but an earnest support, from every man who can perceive the truth, that Ireland cannot be raised from her present lamentable condition by any means that will not call the virtues of industry and self-reliance into active exertion among the masses of her population." The *Freeman's Journal*, which is the organ of the Repeal party, as it is called in Ireland, says, "While we write, we have before us the prospectus of a new company, entitled, 'The Farmers' Estate Society,' which it is proposed to have established in Ireland, for the purpose of creating a class of small freehold proprietors in this country. This prospectus, and the remarkably able pamphlet by Sir Matthew Barrington, with which it is accompanied, develops two things, with a distinctness, and upon authority with which they were not heretofore developed, for the English and the landlord public. They are these: Firstly, that the occupiers having no fixity of tenure, no property in the soil, is the great social evil of this country, as well as the cause of agrarian crime; and secondly, that the agitation of the question, the enforcement of the occupier's right to a property in the soil he cultivates, whether that right be designated 'fixity of tenure,' or 'tenant-right,' has produced its effect, and forced the better-minded and more far-seeing of the proprietary classes to recognise the truth, that we never can have peace in Ireland till the masses of the people shall have a fixed permanent right of property in the soil, either as sole proprietors, as is proposed by the 'Farmers' Estate Society,' or a joint property with the landlord, as is proposed by the advocates of tenant-right. This project is based on the assumption that the establishment of a small proprietary class in the country is essential to its peace and its prosperity; the projectors very justly arguing, that a man without property has no interest in the peace of the country, having nothing to lose by disorder. The provisional committee and projectors are men of the highest station in society, and the furthestmost removed from agitators." The last extract is from the *Dublin Evening Post*, which I will trouble the Committee with, as it discloses a remarkable fact as to the high rate of purchase which farmers will give for land. "We all remember the very high rates of purchase paid last year for the Blessington estates in the county of Tyone, although there was about that time an attempt made to excite a panic about the pretended ruinous effects of the repeal of the tithes laws. Thirty, and in some instances nearly 40 years' purchase was paid for farms of 40 or 50 acres. The public are well acquainted with the facts, but the cause is not so well known; we shall briefly explain it. On the occasion of the sale of the Blessington estates, all difficulty as to title was removed, and the purchaser was spared all the heavy expenses usually attendant on the transfer of property. A special Act of Parliament had been obtained, empowering the trustees to divide the estate into lots suitable to purchasers, with a title the most unquestionable. In this way the field of competition was completely opened, because all the facilities for sale and transfer existed that could be hoped for from the best measure that could be passed by the Legislature for facilitating the sale of encumbered estates. One person who held a farm on the estate at the fair arable rent, became the purchaser of the lot he occupied, and he paid for that and an adjoining lot, out of his accumulated savings, the enormous rate of 39 years' purchase, which could yield a return for the investment of only two and a half per cent. But this thrifty farmer, who is now a small independent proprietor, calculated, no doubt, upon his persevering industry, his judicious outlay of capital in improvements, and the practice of the most approved system of rural economy, for a full repayment of his outlay; and we doubt not he is in a fair way to realise it." Then we had a letter from Sir Robert Kane, who is very well known for his work on the Industrial Resources of Ireland, in which he approves of the measure. "I believe," he says, "that some such measure as you propose is indispensable, to give Ireland even a chance of recovering prosperity; and certainly

tainly any Government that would act in a hostile, or even indifferent manner towards your proposal, could not be looked upon otherwise than inimical to the real and permanent interests of Ireland." I should have said that in the beginning of his letter he says, "What we want in Ireland is not political changes of a theoretical or abstract nature, which are indeed anywhere only important as they affect the social existence of the people; but we want that property shall be really in the hands of those who own it, and who will consequently have the means, and the will, and the courage, to work, and improve, and give employment."

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282. Sir Robert Kane is the head of the College of Cork, is he not?—I believe he is; but he is principally known to the Irish public as the author of a very good work, called "The Industrial Resources of Ireland."

283. The last letter is of Mr. John Wynne, is he a large landed proprietor of Sligo?—That is Mr. John Wynne, of Sligo, who took two or three shares merely to show his approval of it; he is a very large landed proprietor.

284. Was he not one of the Commissioners on Lord Devon's Commission?—I do not know. He says, "I approve most highly of the plan proposed, and feel no doubt but that most beneficial effects will result, if it be properly carried out. I do not like embarking in shares, as the instalments may not be convenient; but if my taking a share or two would be of the slightest consequence, I would do so." And he did take, I believe, either two or five shares.

285. Is not that the same gentleman (*handing the Report of the Landed Commissioners to the Witness*)?—Yes; he was one of the Commissioners with my Lord Devon.

286. Are you enabled to say anything about the increase of late years of capital in Ireland amongst the classes who would be likely to become purchasers of this land?—There has been a very extraordinary increase of capital in Ireland, if we are to judge from this fact; the surplus stock transferred to Ireland from England, from 1838 to 1848, was 13,945,742 £, while the stock transferred from Ireland to England was 6,193,000 £ and some odd hundreds, making a difference in favour of Ireland of 7,751,000 £.

287. *Committee.* Do you suppose that that means that there was an increase in the investments of the people at large in Ireland to that extent?—I do. I take it for granted that that is evidence of the increase in the property of the people; and I know from my own knowledge, and from the different stockbrokers in Dublin, that a very extraordinary increase has taken place in the amount of the investments by farmers in stock of late years. It is quite a common thing, since the railroads have been established, for friends-coat men to come up to stockbrokers, and take out old notes, which have been apparently kept for years, and ask to invest them in stock. One of them mentioned rather a ludicrous fact, that a man bought in 120 £, and as he was leaving the bank he put his hand to his hat, and said, "Will not your honour give me half-a-crown to pay my expenses in town?" And I saw myself, the last time I was receiving dividends at the bank, a countryman receiving ten years' dividends; he took such a long time to write his name, (he was a very bad writer,) and had so many papers to sign, that he occupied the place to the exclusion of others, and great attention was attracted to him; we found that he was receiving ten years' dividends. I asked him why he allowed so large a portion to accumulate; he told me that the expenses, before the establishment of the railroad from Dublin to Carlow, of travelling by the coach and stopping a night or two in town and returning to Carlow were so great, that he did not think it worth while to come up and receive his dividends, and that he from the first looked forward to the period when the railway would be made. The first railroad in that direction had been projected and passed in 1837; but it lay dormant and was never acted upon. He always flattered himself with the hope of it one day or another.

288. Mr. Smyth.] Has your attention been drawn to any increase in capital other than that which you have spoken of amongst those classes; accumulations in the savings banks, or anything of that sort?—The accumulations in the savings banks have been very great; in one of the books in the room there is an official report of it; from an extract which I have taken, the post-office reamittances, which in 1840 were 198,000 £, had in 1846 grown to 1,131,000 £.

289. *Committee.* Internal, or extending to England?—Internal, generally.

290. Mr. Smyth.] Just refer to that Parliamentary Paper, (*handing the same to the Witness*), and say whether or not, in the last return, there are some figures

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which will enable you to show, approximately, what the increase of the deposits in savings banks has been?—The balances due to the trustees on account of sums invested with the Commissioners for the Reduction of the National Debt, at 20th November 1845, were, in Leinster, 965,315*l.* 2*s.* 2*d.*; Ulster, 668,787*l.* 18*s.*; Connaught, 140,782*l.* 19*s.* 11*d.*; Munster, 1,107,280*l.* 3*s.* 8*d.*; making a total of 2,882,166*l.* 3*s.* 9*d.* At 20th November 1847, they were, in Leinster, 840,042*l.* 1*s.* 1*d.*; Ulster, 547,219*l.* 5*s.*; Connaught, 120,736*l.* 16*s.* 5*d.*; Munster, 932,493*l.* 2*s.* 11*d.*; making a total of 2,440,491*l.* 5*s.* 5*d.*

291. *Committee.*] Do not you think that the great increase in the amount of stock apparently held in Ireland may be in part connected with the operation of the Income Tax Act; has not it the effect of exempting from payment what is drawn in Ireland?—I know they collect income tax upon stock in Ireland, but I do not know the circumstances under which they deduct the income tax.

292. *Mr. Stoughton.*] Attention has been drawn to the powers which have been given with regard to the acquisition of land by parallel companies, and particularly by the Lancashire and Cheshire Drainage Company?—Yes; the general outline of the Farmers' Estate Act was taken pretty well from that, with regard to the powers taken for land.

293. What powers do you find are conferred upon them in the first clause, the incorporating clause?—It says “The Landowners' Drainage and Inclosure Company,” and by that name shall have perpetual succession, and shall have a common seal, and by that name shall and may sue and be sued, and also shall have power and authority to purchase, hold, and sell lands, for the use of the said undertakings, without incurring any penalties or forfeitures.”

294. Do you find the Lands Clauses Consolidation Act incorporated in that, and that the powers to purchase in that case are facilitated by allowing them to use the same powers?—Yes, the Lands Clauses Consolidation Act is.

295. Is it incorporated there without restrictions?—Yes. “It shall be lawful for all parties authorized to sell and convey lands by the 7th section of the Lands Clauses Consolidation Act, to sell and convey lands under this Act by agreement, and also to signify any objections under the provisions of this Act; but that it shall not be incumbent on such parties to signify any such objection, nor shall they be in anywise responsible for the consequences of such contract, or the charge made in pursuance thereof.”

296. *Committee.*] That is all for the purposes of the undertaking?—Yes; but those are very extensive.

297. By that do you mean that they can buy estates, drain them, and sell them again?—There is a reference there to what particular lands they are to buy.

298. Is it not to buy land merely for the purpose of making their drains or cut-fells?—I will read the provisions.

299. What lands have they power to take?—The words “waste lands” are defined here thus: “And that the words ‘waste lands’ shall be understood to mean all lands which are subject to be enclosed under the authority of a certain Act made and passed in the eighth and ninth years of the reign of Her present Majesty, intitled, ‘An Act to facilitate the Inclosure and Improvement of Commons, and Lands held in common; to provide remedies for the defective or incomplete execution, and for the non-execution of the Powers of General Acts, and to provide for the revival of such Powers in certain cases;’ and also all waste land of any manner on which the tenants of such manor have rights of common, and any land whatsoever subject to rights of common, which may be exercised at all times of every year for cattle, *levant and couchant* upon other land.”

300. Does it appear that the company have power to purchase large tracts of land for the purpose of draining them, and then parting with them again in an improved state?—So it appears from a cursory perusal of this Act.

301. In the course of your practice as a solicitor, have you ever had occasion to sell land in small portions?—We have found a great disinclination, generally speaking, in parties to sell land in small portions, and it struck me that it arose very much from the idea that the increased expense of making out many copies of the title would not be an advantage; but that feeling is ceasing very much in Ireland, because the experiments of late have been so very successful. In one case we sold an estate in the south of Ireland, belonging to the family of Holmes, tenants in the Isle of Wight, and we got 26 years' purchase upon the rack rents. It was sold in lots, so as to enable parties having so small sums of money as 750*l.*, which I think was the smallest, to buy.

302. What

302. What was the size of the smallest lot?—I cannot state from recollection; *F. D. Jeffers, Esq.* they were cultivated and held in the ordinary way.

303. Did you find that the occupiers bought in many cases?—Yes, the better class of occupiers, not merely tenants; but the general run of those estates brought on the rack rents 26 years' purchase.

20 July 1861.

304. What is the common number of years' purchase?—I should say at that time 25 for such land as that, which was very good land in that part of the country.

305. Then you only got one year's purchase by the subdivision?—Probably one and a half, I should say.

306. Where you have sold in detached portions, have you found that persons have bought for the sake of occupancy, or merely for the sake of investment for money, leaving tenants upon the land?—Several of the persons bought for the purposes of occupancy themselves; the land was very near their residences.

307. Have you ever found that merchants and traders in towns have bought merely for the purpose of investment, and not for occupancy?—Yes, that is the general way in which they have hitherto bought in Ireland, for the purpose of investment, and not so much for occupancy; very small capitalists would buy more for occupancy, but I am quite sure that if facilities were given, shopkeepers in all the better class of country towns who have saved some 3,000*l.* or 4,000*l.*, would invest it in land for the purpose of occupancy; I think so; it is a very general feeling.

308. Have you reason to suppose, from your intercourse with persons in Ireland, than many will be found willing to take shares in this company?—I think a great many. In any company in Ireland there is a disinclination to take shares at first. We were concerned in the getting up of the first great railway company, the Great Southern and Western Railway Company, and we were for a very long time indeed endeavouring to induce parties in Ireland to take it up; however, some influential individuals did take it up, but at too late a period of the year to comply with the Standing Orders; it was in January; the share-list was opened, and was filling very slowly in Dublin; this was in the beginning of 1844, before any step had been taken, before the railway measure had begun; the list was open for weeks; some people came, and took 20 shares; and they came the next day and rubbed out the 20, and put down 10; but in the meantime the project was brought before the notice of some influential gentlemen here, principally the London and Birmingham directors, and the moment it was found that it got favour here, they flocked in in Dublin in crowds to take shares, but then the list was full; and when the share-list was complete, it stood at one-third Irish capital, and two-thirds English.

309. Do you know the number of shareholders that are in your present company now?—Comparatively very few.

310. Do you know the amount of shares taken?—I think between 200 and 300; we ceased to press it on the public after some time.

311. Have you made any call?—No; nothing more was done than that a body of directors formed themselves, and undertook the expenses of the Act, and registered provisionally.

312. Then there is no deposit made by shareholders?—There is a very slight deposit set out in the prospectus.

313. That is all that is done?—Yes.

314. The profits which you propose to acquire are by the additional price which you will get for the sale of land in lots over and above what you will pay for the estate in full?—Yes.

315. Do you conceive that the additional number of years' purchase which you will acquire by means of selling in lots will be sufficient to pay the expenses attendant on carrying this Act into execution, and also to give a fair dividend?—I do.

316. Have you made any calculation as to the additional number of years' purchase which you will require throughout Ireland?—I myself have considered the matter, but other persons more competent have done so; an actuary in Dublin, of high character, has given a detailed account of it; but so far as I have considered the matter myself, I think we shall purchase the better class of land in Ireland for between 22 and 25 years' purchase, in large portions, and I have no doubt we shall be able to sell it in lots for 25 years' purchase.

P. D. Sykes, Esq.
 10 July 1848.

317. Do not you consider that at the time of the sale of encumbered estates land will fall greatly in value?—I do.

318. And do you conceive that when it is purchased in lots it will also fall?—I think we shall be always able to command a higher price by the lots than we shall have to pay for the estate in bulk; whatever the price of the land in the market may be, I am sure there will be always a considerable difference between the value of an estate in bulk and the value of an estate subdivided in Ireland; so many more men can come in to compete for the small parcels of land than can for the large.

319. Are you aware that the Duke of Buckingham's estates are at present under sale?—I am.

320. Are they selling in bulk or in lots, generally speaking?—His estate in the county of Clare, I understand, was sold in bulk, and it produced, I believe, 32,000 *l.* The solicitor who had the direction of the sale in Ireland stated that that was some 20,000 *l.* under what was offered some years previously; I cannot say how many. The estates in the Queen's County or in Westmeath, I believe, were many of them sold in lots, and sold to the occupying tenants.

321. Are you aware whether the Court stopped the sale of those estates in lots, in consequence of not having been able to procure sufficient money?—I am not aware that the sale was under the Court.

322. Was the sale stopped in consequence of sufficient purchase-money not being acquired?—I do not know; I am aware the sale was stopped, but I am not aware of the reason.

323. In selling the estate to which you have referred, did you find there was a great additional expense in making out the title?—No; generally in Ireland, since our attention has been called to selling in lots, of course the attention of sellers has been turned to the reduction of the expenses, and the practice has been adopted of not going through the original plan of producing the title two or three hundred years back, but taking it up at some particular family settlement.

324. Sixty years?—Generally 60 years back, and submitting the whole statement of title to some eminent counsel or two, first ascertaining their opinion, and complying with all the requisitions which they make, so as to give a perfectly good title, and then selling under conditions; and there is no disinclination of parties to come in if the estate is known in the country.

325. Do you think that small purchasers make the same objections about a good title as large purchasers?—Yes, and more so, in many cases; they are more anxious about the safety of their title. But the expense is considerably lessened in the way I have mentioned.

326. I suppose you print the abstract?—Yes, in selling a good many lots. That course was adopted in the sale of the Blessington estates, which was the last sale in Ireland, and a remarkably good property.

327. They were all Irish purchasers, were they not?—They were all Irish purchasers on the Blessington estates. We have bought a great deal of land from time to time, but it is singular enough that we have scarcely bought any land for new purchasers; our clients have generally been large landowners already, but of late years the smaller capitalists are coming very much into the market.

Mr. John M'Mullen, called in; and Examined by Mr. Smyth.

Mr. J. M'Mullen

328. YOU are Secretary to the Grand Canal Company in Ireland?—I am.

329. How long have you held that situation?—Between 12 and 13 years.

330. Are you well acquainted with the general condition of the midland counties in Ireland, say six or seven of the midland counties?—Yes, I am pretty well acquainted with those counties in Ireland which are traversed by the canal, six or seven of them, from Dublin right across the island to Galway and Queen's County, county Carlow and county Westmeath.

331. Have you frequent occasions of visiting them?—Very frequent occasions to travel in that direction, and a great deal of intercourse, of course, with persons residing in that district.

332. Have you for a length of time, both before and after your connexion with the Grand Canal Company, given much attention to the condition of the agricultural and labouring classes in Ireland?—I have given a good deal of attention to it

it at different times. I resided in the early part of my life in the north of Ireland, and I have visited most parts of Ireland at one time or another.

333. And you have now, by your situation, been brought into connexion with the midland and southern counties?—Yes.

334. Your navigation goes down as far, I think, as Limerick?—It is closely connected with that navigation, although it is no longer our property, but we connect ourselves with it, and also with the navigation of the Barrow, down to Waterford; we have a good deal of intercourse with all those districts.

335. Looking at the knowledge which you have thus acquired of the agricultural population of Ireland, do you rely in a great measure upon agricultural masters as the source of future improvement in Ireland?—I think there is no reasonable prospect of any other source of improvement in Ireland. I do not think Ireland is at all likely to become a manufacturing country, perhaps ever; at all events for a good many years to come.

336. Do you also regard any extension of the comfort and social benefit of the people as an object to be produced by improvement in their agricultural condition?—I really think there is, generally speaking, nothing else to be relied upon but the improvement of agriculture for the improvement of the general social condition of Ireland, so far as the production of capital and of money.

337. Do you regard the present position of the Irish farmers generally, both large and small farmers, in respect of the occupation of land, as a main cause of the perturbed state of that country, and the disorganization and distress?—I speak from my own observation, and from every inquiry I could make; and from careful reflection upon the subject, I have certainly come to that conclusion, that the principal cause of the backward state of that country is the tenure by which land is held. The farmer, if he hopes to make anything beyond a mere livelihood from land, must expend capital upon it, as well as labour, and in a majority of cases he certainly has no security for the capital which he so expends. That is the universal complaint of all persons; all industrious farmers that I have had an opportunity of talking with in different parts of Ireland make the same complaint.

338. Have you had the subject-matter of this Bill under your consideration for any length of time?—The prospect of carrying a measure such as this was under my consideration long before I knew Sir Matthew Barrington had ever taken the subject up; I had frequent conversations with the late Sir Henry Parnell upon the subject, with whom I was very well acquainted, and conversations and correspondence with Mr. O'Connell, and I have urged it from time to time, in point of fact, upon every influential member of society almost that I have had any opportunity of conversing with upon agricultural subjects.

339. You yourself in your private capacity have for many years been pressing upon public men the importance and desirableness of such a subject as this?—I should say for 20 or 25 years.

340. Do you think that very great improvement would be effected if such a Bill as this passed?—I think it would open the door to very great improvement.

341. Is it a matter which happens to be within your knowledge that there are many persons of the small-farmer class who have accumulated sums of money, who would be ready and anxious to invest it in the purchase of land, as proposed by this Bill?—I am quite satisfied that such is the fact. I have had myself opportunities of knowing that such things are done by persons in that class; one of them came under my observation only a few weeks ago. A person, apparently in very straitened circumstances, a man living in a mud cabin I may say, heard of a small plot of ground with some building upon it which had been leased by the Canal Company (some ground which they had taken for the purpose of making the canal, and afterwards did not want and leased off); the person to whom it was leased made some improvement upon it, and built upon it, and he was desirous of selling it. I am aware myself of three or four others that he had for it, and this person bought it, and gave something like 300*l.* for it; certainly a person that I should have supposed quite unable to raise any such sum of money. I know he came to town, and had his Government stock sold out to pay the money.

342. Is this a small agriculturist in the neighbourhood of that property?—Yes; a man apparently in very straitened circumstances, living, in point of fact, in a mud house, whom no one could suppose had 300*l.*, or 400*l.*, or 500*l.*, and I dare say he has a great deal more money.

335.

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343. Have

Mr. J. M'Nastan.

30 July 1848

Mr. J. J. Mailes.

26 July 1848.

343. Have you any doubt that there are many other persons in that district of the country who have equal means?—I know of my own knowledge that there have been three or four, and I believe five or six offers made by persons in the same circumstances, and in the same class; I have known several cases.

The committee-room was cleared.

After some time the Agent and Parties were again called in, and informed by the Chairman that the Committee had passed the Preamble of the Bill with Amendment.

[Adjourned to Monday next, at Three o'clock.]
